



Digitized by the Internet Archive
in 2022 with funding from
University of Toronto

<https://archive.org/details/31761114669013>



A-13 1991

G-13 1991

ISSN 1180-5218

Legislative Assembly of Ontario

First Session, 35th Parliament

Official Report of Debates (Hansard)

Monday 18 February 1991

Standing committee on
general government

Rent control

Assemblée législative de l'Ontario

Première session, 35^e législature

Journal des débats (Hansard)

Le lundi 18 février 1991

Comité permanent des
affaires gouvernementales

Réglementation des loyers
d'habitation



Chair: Remo Mancini
Clerk: Deborah Deller

Président : Remo Mancini
Greffier : Deborah Deller

Published by the Legislative Assembly of Ontario
Editor of Debates: Don Cameron



Publié par l'Assemblée législative de l'Ontario
Éditeur des débats : Don Cameron

Table of Contents

Table of Contents for proceedings reported in this issue appears at the back, together with a list of committee members and other members taking part.

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at (416) 965-2159.

Languages in Hansard

Hansard reports all debates in English or French as spoken by the participants. It does not translate remarks made in either language. Headings and tables of contents reflect language use.

Subscriptions

Subscription information may be obtained from: Sessional Subscription Service, Publications Ontario, Ministry of Government Services, 5th Floor, 880 Bay Street, Toronto, Ontario, M7A 1N8. Phone (416) 326-5310, 326-5311 or toll-free 1-800-668-9938.

Table des matières

La table des matières des séances rapportées dans ce numéro se trouve à l'arrière de ce fascicule, ainsi qu'une liste des membres du comité et des autres députés ayant participé.

Il existe un index cumulatif des numéros précédents. Les renseignements qu'il contient sont à votre disposition par téléphone auprès des employés de l'index du Journal des débats au (416) 965-2159.

Langues paraissant dans le Journal des débats

Le Journal des débats rapporte en anglais ou en français les débats, selon la langue utilisée par les participants. Les remarques faites en l'une ou l'autre langue ne sont pas traduites. La langue des en-têtes et de la table des matières reflète la langue utilisée.

Abonnements

Pour les abonnements, veuillez prendre contact avec le Service d'abonnement parlementaire, Publications Ontario, ministère des Services gouvernementaux, 5^e étage, 880, rue Bay, Toronto (Ontario) M7A 1N8. Par téléphone : (416) 326-5310, 326-5311 ou, sans frais : 1-800-668-9938.

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON GENERAL GOVERNMENT

Monday 18 February 1991

The committee met at 1008 in committee room 1.

RENT CONTROL

The Vice-Chair: Good morning. I see a quorum. Welcome to the standing committee on general government.

Today we are pleased to have with us the Minister of Housing, the Honourable David Cooke. Mr Cooke has a statement. I believe all members have a copy of this green paper that the minister will be speaking to today. I am pleased on behalf of the committee to welcome the minister with us and look forward to your statement, sir.

Hon Mr Cooke: If I might just begin, I have talked to the two opposition critics and indicated that I understand that the schedule has it that tomorrow you will be beginning clause-by-clause of Bill 4. I was scheduled to be here tomorrow, but I will be unable to be here because of a funeral that I must attend in my home constituency. In talking to the two critics, the arrangement, if it is acceptable, Mr Chairman, was that they would begin clause-by-clause of the bill and any sections of the bill that they wanted myself to be here for could be stood down, and I will be back here on Wednesday. I apologize for the inconvenience, but it is unavoidable.

I certainly appreciate the opportunity to appear before the committee again this morning to follow up our initiatives on rent regulation, although I must confess I would prefer to be where I was last week at this time.

Today I have the great pleasure of initiating the next step in a one-year process to develop and enact permanent rent control legislation. When I last appeared before the committee, I said that permanent legislation on a simple and effective system of rent control will have a significant impact on the wellbeing of a very large number of people in Ontario. It is important that we move forward as speedily as possible in order to remove uncertainty in the minds of both landlords and tenants. Tenants need real protection and they need certainty about their rights and obligations. So do landlords. To make long-term financial decisions about their businesses, they need to know as soon as possible and as clearly as possible the rules under which the rental market will operate in the future. For the same reason, they need certainty and predictability about these rules.

As members of the committee know, Bill 4 is an interim measure, a moratorium on rent increases above the guideline for a specified period no longer than two years. It was intended to provide protection to tenants against excessive rent increases during that period while we set about developing a permanent system of rent control that meets our long-term requirements.

When I addressed this committee on that interim legislation, I assured members that as we proceeded we would initiate intensive public consultation on a permanent system of rent control. I am pleased to take this opportunity to

present to the committee the first step in that consultation process, a consultation paper outlining the issues involved in rent control and some options in dealing with them. The consultation paper seeks to ascertain the views of the public, not only tenants and landlords but anyone who has an interest in this topic, on the best approach for an effective system of rent control.

In regard to some issues, not all, the paper indicates options that the government prefers, but I hasten to emphasize that none of the options outlined in the paper represents a final decision in advance of consultation. They are only intended to draw attention to the issues and at most give an indication of our current thinking. We know that there is much that we can learn from listening to people and our thinking is therefore open to review and adjustment in light of new ideas that may emerge during this consultation.

Housing, in our view, is a fundamental need for individuals' and families' wellbeing and, in the larger context, for the quality of life we want for all our communities. We are committed to the ideal that people have a right to safe, secure and affordable housing. Providing access to that housing is a primary responsibility of all levels of government and all sectors of society. We recognize that the housing industry, which encompasses many activities, contributes significantly to the economic prosperity and social stability of Ontario.

The simple fact that more than three million Ontarians, one third of our entire population, rely on the rental market for their housing points to two realities: Any policy or strategy that seeks to ensure access to affordable housing must address the question of the percentage and predictability of rent increases and it must address the preservation of the available stock of affordable rental housing as well as the task of increasing the supply of all forms of affordable housing.

I see the consultation process we are starting today as the first in a series of consultations in developing a co-ordinated housing strategy for Ontario. Developing such a strategy through consultation will obviously take a sustained effort over a lengthy period. We want to begin that process now. Our immediate strategy includes steps to increase the supply of affordable housing, better use of government land for housing and measures to improve the quality of life in public housing.

With the committee's indulgence, my staff will be making a fairly detailed presentation this afternoon on the various aspects of rent control outlined in this consultation paper, but now I would like to touch on some of the principles which we think should guide any system of rent control.

The first principle, for obvious reasons, is real protection for tenants, the key area where the current system of rent regulation has demonstrably failed. As we have all

seen, it failed to protect tenants against excessive rent increases which in some cases amounted to economic eviction, and it failed to protect them against inadequate maintenance standards.

Second, the legislation must be clearer and simpler and the administration less expensive and convoluted. Landlords and tenants need greater certainty about the scope, scale and timing of rent increases.

Third, tenants must have a say in the decisions affecting the units as well as the buildings in which they live. Tenants must be able to participate in those decisions which have a direct impact on their lives.

Fourth, tenants and landlords need an environment in which decisions on regular maintenance and repairs can be made without confrontation.

Fifth, but in no way less important than these other principles, we need to prevent the loss of existing housing stock.

Sixth, while the Landlord and Tenant Act needs to be retained as separate legislation covering aspects of tenant-landlord relations other than rents, it is also necessary to make the rent regulatory system more compatible with the act.

No amount of legislation can achieve any of these objectives unless two other conditions also exist: Tenants and landlords should be able to understand their rights and obligations under the legislation—in other words, they need ready and easy access to information—and there should be provision for fair and accessible mechanisms for deciding disputed issues.

In the consultation paper, basic issues, options and, where identified, preferred approaches are assessed against these principles. Nine major issue areas are addressed in the consultation paper:

1. the scope of rent control coverage—options on what to include under rent control and how to determine whether a unit is covered by the legislation;

2. permitted annual increases—options on the timing and the basis of an annual increase;

3. exceptions to the permitted annual increase—whether increases above the guideline should be allowed and, if so, what should be allowed;

4. capital expenditures—how capital expenditures on repairs and renovations should be addressed;

5. maintenance—how to ensure maintenance standards;

6. rent reduction—options on tenant challenges of any increase, landlord-tenant agreements on what services and facilities rents should guarantee and compensation for illegally charged rents;

7. rent information—options for a central data bank containing rent information, commonly referred to as the rent registry;

8. decision-making and the administrative structure—options on dispute resolution systems, assistance to parties in disputes, enforcement and other related matters;

9. conversions of rental properties—options on a system to regulate conversion, demolition and renovation of rental properties.

As I said before, where preferred approaches are identified they are only intended to focus discussion, not to

pre-empt it. We are ready to reconsider any of them at consultation proceeds.

I want to dwell for a moment on the issue of capital expenditures. This consultation is about rent control which, as I have said on many occasions, is necessary to protect tenants against excessive rent increases and to ensure adequate maintenance standards. But we fully recognize that landlords too have legitimate concerns which must be addressed. Landlords have an interest not only in the way rent control affects their rental incomes, but also in the long-term viability of their properties and their proper maintenance.

These questions are as important to the government and to our society as they are for landlords, for the simple reason that rental housing is such a significant part of our housing stock and it must continue to be available. It is estimated that 65% of Ontario's rental housing stock is more than 20 years old, and in the context of a diminishing number of additions to this stock since the 1970s that proportion will only increase as time goes by.

The consultation paper reflects our recognition of these realities. It sets out the issues and raises a number of options in dealing with capital expenditures and regular maintenance. No preferred option is identified. We believe that the new law must respect the concerns of all sectors of society. This is reflected in the options suggested in the area of dispute settlement and decision-making.

The consultation paper recognizes the usefulness of funding both landlord and tenant groups and it recommends the creation of a rent control advisory committee to sustain an ongoing dialogue between landlord and tenant interests.

1020

With the release of the consultation paper, we are calling for submissions from interested individuals and groups by 5 April 1991. A newsletter summary of the main issues will be delivered to most apartments, all for which we have addresses on record at least, in the next few days so that tenants and landlords will have an opportunity to get back to us with their views. I appreciate the attention the committee will devote to reviewing this consultation paper.

I will be visiting many communities across Ontario during March and early April, along with my colleagues Margaret Harrington, my parliamentary assistant, and Don Abel, the member for Wentworth North. On these visits we will be eliciting community views on all possible rent control options. I hope to present draft legislation for first reading by June and it is my wish that we will have a fairer and more effective legal framework for rent control in place by early 1992. It is important that we move forward with that permanent legislation as quickly as possible. Thousands of people, both landlords and tenants, are awaiting the certainty that only permanent legislation can provide.

I recognize the short time frame facing all committee members. I am confident the committee appreciates the urgency of our task and I hope to have your understanding and co-operation in accomplishing it. I look forward to the public dialogue you will begin next week.

As members of the committee will agree, it is important that we complete our work on Bill 4, so that we can then focus our attention on the next task ahead, the new legislation. I hope that the committee can now move forward to a clause-by-clause review of Bill 4 as the next step towards its adoption.

To summarize our approach to housing in Ontario very briefly, access to safe, secure and affordable housing is a basic right. We must and we shall develop a comprehensive strategy for housing in Ontario. Rent control is a necessary part of that strategy because one third of Ontario's residents rely on rental housing. We want to ensure that we have in place as early as possible a clear and effective system of rent control. I look forward to the continued understanding and co-operation of this committee as we move to ensure security and supply of affordable housing for the people of this province.

The Vice-Chair: Thank you, Minister. For the information of the committee, we will proceed with the critics from each of the two opposition parties and then there will be a general discussion of the minister's comments.

Ms Poole: I would like to make some preliminary comments about the minister's statement and the green paper. Because the members of the committee have had very little time to actually peruse the document, most of my comments will be geared to the process as opposed to the substance.

This government has repeatedly asserted that it desires to consult. Unfortunately, I think the consultation outlined in the minister's statement is nothing less than a mockery. I will give you several examples of this.

For instance, the deadline for submissions by the public is 5 April. That is six weeks. Most tenant groups, for instance, would barely have begun to meet, distribute copies of the consultation paper and begin to formulate their ideas, let alone put in a formal submission to the minister on what options they would like to see followed through. The same with small landlords—they would not have the opportunity to give this document the in-depth look that they would like.

The minister has continued this mockery of a process by saying that he is going to travel to consult, but it is only with members of his own party. Other members on this committee or members of the opposition are not included and not invited on those travels.

We as a committee have been given all of three days next week in which to have this so-called public consultation and I personally have a great difficulty with that. We have made a preliminary decision as a committee that the only thing we could do is have consultation by invitation, not by advertising widely, because in three days we cannot even begin to tap the number of people who would like to address this. We have also put those who are coming next week at a decided disadvantage because they will have had all of one week in which to determine what their stand is, which recommendations they would like to pursue, and it really does disadvantage any presenter who is coming before us.

I think that the major difficulty I have with this whole business is that the process is being rushed. I can understand the minister's desire not to have Bill 4 in place any longer than necessary. We have heard in this committee the ramifications of this bill and the dislocation it has caused in the housing industry, so I would certainly agree that we do not want it in place any longer than we absolutely have to, but by the same token, we are talking a major revisitation of the whole rent review process, the whole rent control process. We are talking about a major shift in philosophy. We are talking about major changes to the housing industry and we are talking about having legislation on the table by June.

What type of consultation process can we have? What type of surveys, what type of statistics are available to back up the fact that the minister has already decided on preferred options? We do not have any of this material. As a committee our hands are tied and I think as opposition parties our hands are tied.

Rent review, as the minister has stated on many occasions, is an enormously complex system, not understood by very many tenants or landlords, let alone legislative members, and to think we are going to stand the world on its head and completely change it over the next couple of months is totally unrealistic. If we truly want consultation from the people of Ontario, then we are going to have to provide that time, and 5 April as a deadline does not provide that time.

Those are my major comments as far as process is concerned. As far as the substance of it is concerned, the ministry has gone through and outlined various options. I guess one comment I would like to make is that they have listed in most cases a preferred option, while the minister has mentioned that he does not want this to be taken as a final determination by the ministry but as a focus.

I have a problem with that. I think that any consultation he has is going to be geared towards this preferred option rather than truly exploring some of the options that may exist. Again, I point out that there are no statistics, surveys, research that the ministry has that can back up that these options that it considers to be preferred are in fact ideal ones.

We have heard a lot of rhetoric over the past weeks on Bill 4 and from the minister in the House about increasing the housing supply, about dealing with economic eviction, about a partnership with the private sector, about having increased consultation and goodwill between landlords and tenants, and to my mind this paper has not taken that holistic view. Those issues are not explored and it really leaves us hanging as to how all these various sectors are going to fit in here.

In conclusion, I would just like to say that I hope the minister will reconsider the process in particular and allow more consultation. I will not be recommending that this committee, the standing committee on general government, make any recommendations back to the minister, because in three days, quite frankly, I do not think we will have enough information available to us to make those types of decisions.

So I would hope that the hearings would be extended once we are back in the House, that the minister might consider some flexibility as to the 5 April deadline and that he might consider that the summer should be used for a consultation process and then legislation should be tabled in the early fall so that we can get a long-term solution on the road as quickly as possible but at the same time allowing consultation.

1030

Mr Tilson: The Chair has asked the opposition critics to make comment on this document that has been presented to us by the Minister of Housing. It is very difficult to respond to this type of document, which is certainly most vague and certainly is full of meaningless rhetoric.

The minister says in his document that this is the first step of the consultation proceedings. I do not know what he thinks we have been doing for the last number of weeks going around this province listening to concerns of tenants, landlords, people who have lost their jobs, people who are going bankrupt, people who have lost contracts, investors who have said that they are not going to invest in the province of Ontario because of the housing policies. I do not know what he thinks we have been doing, because certainly the bulk of those proceedings have gone far beyond the intent of Bill 4 and have gone to areas that Bill 4 does not deal with. I wish to report to him that if he has not—and of course he was present in Windsor and he saw some of the proceedings in Windsor, but I think even in that short period of time, he must see that the proceedings have started.

The difficulty I have is that obviously housing is one of the major social problems that this province has. There are 350,000 households that are paying 30% or more of their income towards rent. This document does not deal with the war on poverty. It does not deal with that at all. It does not deal with the 40,000 people who are on the waiting lists for non-profit housing. It does not deal with that at all.

I think that the minister is going to have to provide some sort of response to the people who have said that they are losing their jobs, the thousands of jobs that have been lost and it is anticipated will be lost, the landlords that are telling us that because of the retroactive aspect of this legislation they are going bankrupt, the deterioration of the standard of living for tenants across this province—it has already started; landlords are simply saying that because of this interim legislation there will be no capital expenditures being made because they simply cannot afford it—the indication of the loss of confidence of investors, both from within and without the province. This green paper does not deal with those items.

Clearly this paper suggests substantial increases in bureaucracy, and that certainly was one of the major concerns of the Progressive Conservative Party during the election and continues to be one of our concerns, that bureaucracy is on the increase. This government has not dealt with that. If anything, the bureaucracy will increase even more than it already has.

With respect to what the minister's plans are, he says that he hopes to have representations from individuals

by 5 April of this year, and that is going to be very difficult for people to comment on such a comprehensive policy around this province.

I must confess I find it very difficult, individual members of the New Democratic Party going around the province hearing concerns. I for the life of me cannot understand why other members of the Legislature are not invited from the Progressive Conservative Party and the Liberal Party to participate in these proceedings as well, because there are other points of view.

I repeat that the government obviously represented to the public that it had a plan for housing during the election. It has had six months to create a housing policy, we sat for a month in December, and now all we get is vague statements and vague generalities. I for the life of me think that the Agenda for the People is a sham, that they are still thinking about what they are going to do.

I am concerned with some of the concepts that are in the paper. I have had a chance to peruse it this morning. I have not had a chance to discuss it with members of my caucus or advisers. The paper seems to indicate that non-profit housing will not come under this subject, which I assume means that the government people who are going to be administering these types of housing feel that they cannot stand the process that is being suggested. In other words, they are going to be allowed to do the very things that the government is telling the landlords not to do. I have a lot of difficulty with that. I have sat on a non-profit housing committee which talks about maintaining buildings, and yet—unless I am misreading it, and perhaps the minister can tell me I am; I do not think I am—non-profit housing will be outside this legislation.

The whole issue, as I indicated earlier, of how are we going to solve the issue of poverty was one of the major concerns that we heard in our hearings, that people, the tenants, simply cannot afford any rents. What are they going to do about that?

This committee has been asked by the minister to comment on this paper. I submit that it will be very difficult in the time frame allowed for this committee to make proper statements or make an intelligent comment. The NDP themselves will be going around the province listening to people, listening to their reaction as to the paper. This committee will not. This committee is setting aside three days next week to hear selected sectors of the housing community talk on this paper. I doubt very much whether they will have sufficient time to adequately prepare to make submissions to us.

The Progressive Conservative Party has continually asked that more people be allowed to come and comment on Bill 4. There have been 150 applicants that I know of people who have wanted to be heard and cannot be heard, and yet this committee, during the Bill 4 hearings, is being asked to comment on a vague housing statement that hopefully the government would have resolved by now. I am disappointed in the vagueness of it and I hope that this process will be speeded up considerably by the Minister of Housing. Those are my comments, subject to further discussion which we will make later.

The Vice-Chair: Thank you, Mr Tilson. Just so the committee knows, the minister will now make a brief response and then we will open it up and the committee can discuss the issues with the minister.

Hon Mr Cooke: Thank you, Mr Chair, and I appreciate the comments of the critics for the official opposition and for the third party.

I guess what I would start off by saying is that if it is the feeling of both the opposition parties that they would prefer, as Ms Poole has suggested, that we instead go through several months of consultation and not have the permanent legislation ready until the fall, which would then mean public hearings would take place about a year from now and the implementation of the permanent legislation would be in the fall of 1992, if that is the position that is being suggested by both the opposition critics, then I am prepared to sit down, along with my parliamentary assistant and the two opposition critics, and discuss that. If that is the position that you are taking, that we should go through a longer process and therefore not have the permanent legislation in place until the fall of 1992, I am prepared to discuss that.

We were moving on this time line because we felt it was the position of the landlord community and the position of the opposition critics that it was important to get the permanent legislation in place as quickly as possible, and I readily admit that as a result of that we have to go through a quicker process of consultation than I would certainly have preferred in the first instance. I do think that it is important to get on with the process, but we can talk about that.

Ms Poole: Mr Chair, on a point of order: I would just like to clarify for the minister that I was not suggesting that the permanent legislation come in in the fall of 1992, it was the fall of 1991, that it be introduced—

Hon Mr Cooke: That results in permanent legislation being enacted for the fall of 1992.

Ms Poole: No, it does not, because what I would be proposing is that—

Mr Mammoliti: Is that a point of order?

The Vice-Chair: I think it is actually a point of information. Perhaps, Ms Poole, you could allow the minister to continue.

1040

Hon Mr Cooke: The point is that if the legislation came in the fall, by the time the legislation got second reading in the fall and then there were public hearings on the legislation—and I would assume that the opposition critics would agree with me that the permanent legislation should have public hearings by a standing committee of the Legislature with hearings across the province, and that would have to take place in the winter break of 1992—the legislation would then come back to the House for third reading in the spring of 1992, and after it got approved by the Legislature, then there is a period of a few months to develop the regulations associated with the bill. So the earliest that the bill could be in place under your scenario is the fall of 1992, and that is just a reality.

We canvassed this option very carefully. If there had been a different alternative that would have allowed for a longer period of time of consultation on this document, I would have taken that alternative, but this was the compromise. So I share your concern, but there was no other alternative other than this if we were to get the legislation in place for early 1992. If you have some other alternative that is workable, then I am more than willing to sit down with the opposition critics to adjust the timetable.

I guess I would also apologize if I gave the wrong impression to the Conservative critic. I understand that the consultation that you have been going through in the last few weeks on Bill 4 has not just been on Bill 4, that it has been on the whole principle of rent regulation, and I understand that very clearly. The point we were making in our statement today is that in terms of the options that we see and the consultation on the green paper, the process is beginning today.

I think you make a valid point that the consultation you have been going through on Bill 4 will serve this committee well in developing its response to the consultation document as well, because you have had lots of indication from many people across the province on not just Bill 4 but their own philosophy and ideas towards rent regulation.

I would indicate to the Conservative critic that it was not our intention in this document to deal with the whole issue of poverty and waiting lists and supply. We have indicated that there will be other consultation documents that will be coming out on the supply issue. We have already taken the initial action of going through a somewhat elaborate process of reallocation of the Homes Now units under the former government's program so that at the end of this year we will have come very close to building all, or getting under construction all 30,000 units under the Homes Now program, which would not have happened if we had not gone through the process of reallocation. And I would say that I believe that you will have to look to the provincial budget to see what kind of a response there is for additional housing supply from this government, and I believe that you will see a response in the budget.

The waiting list issue is very much real, but, again, that deals with supply and we will be having some proposals and a consultation document on what the framework of supply should be and what type of strategy, because I agree with comments that you have made in the past, that if we just do the same old thing in the same old way, the waiting list, which is currently 43,000, will not disappear. In fact, if you take a look at the recommendation from the Ontario Housing Corp that we should extend our waiting list to refugees, which I certainly agree with, that waiting list could potentially jump from the 43,000 who are currently on the list to 93,000. And without any federal government assistance in dealing with the refugee and immigration issues in Ontario, we have to do it alone at the provincial level, because the federal government has not helped us out. So the whole issue of supply and waiting lists is a major issue that we are going to need your input on and the input of people across this province.

The paper, I believe, does deal with some of the problems that you have identified and other people have identified

with Bill 4, and it does, I believe, deal with the issue of bureaucracy. It is our hope and our expectation that whatever final system we come up with will cut down on the size of the bureaucracy and will cut down on the amount of money that we spend on rent regulation in this province. That is certainly our goal.

I think that as best as possible covers some of the comments that have been made by the opposition critics. I appreciate their comments and hope that we can have some time to talk to one another about it now.

The Vice-Chair: Thank you, Minister. I have a number of names on the list, for members' information, Mr Turnbull, then Mrs Poole and Mr Mahoney.

Mr Turnbull: Minister, in your opening statement you say, "Tenants need real protection, and they need certainty about their rights and obligations." We absolutely agree with you on that. You go on to say: "So do landlords. To make long-term financial decisions about their business, they need to know as soon as possible and as clearly as possible, the rules under which the rental market will operate in the future. And, for the same reason, they need certainty and predictability about those rules."

In view of the various statistics which are presented in your discussion paper today, and in fact which have been presented in testimony before these hearings, we see that at least two thirds of all capital costs are in fact necessary. In fact, your definition is possibly questionable, because the Ministry of Energy is concerned about getting energy-efficient appliances and it is suggested in here that appliances are not necessary. Putting that on the side for a moment, it further identifies that \$7-billion worth of repairs will be needed by the year 2000.

In view of your statements that landlords need predictability and certainty and the fact that we know that so many of these renovations and repairs are necessary, and in the discussion paper they say there has to be a way of recovering that, will you immediately move to get rid of the retroactive aspects of Bill 4, which are having the effect of destroying small landlords who, within the framework of the law, entered into these renovations which your discussion paper says were necessary?

Hon Mr Cooke: I think what the discussion paper is indicating to you is that in any permanent system of rent control in the province there has to be a mechanism of dealing with capital. I have indicated that right from the beginning. Before Bill 4 was even introduced into the Legislature, I indicated that any permanent system of rent control was going to have to deal with the issue of capital. That is the purpose of the discussion document, to discuss with you and other people in the province how we might best handle the capital needs of the rental sector in the province.

I certainly agree the permanent system is going to have to deal with that, but if you take a look at what has existed in the past, the legislation that the previous government introduced did not guarantee that there was adequate maintenance occurring. In fact, what it encouraged was neglect of a building and then bunching up of capital renovations so that all at once there would be one shock to a building.

What we are suggesting is that any permanent system that comes into place has to be a system that encourages ongoing and long-term planning and maintenance of apartment buildings. I believe that the discussion document has some options listed that would do that, but I do not think that the difficulty of long-term maintenance problems is going to be solved by the solution. I mean, it is politically advantageous for you to make those kinds of comments in the committee, but we are looking at the long-term solution here.

Mr Turnbull: Minister, I have to object to you suggesting it is politically advantageous. There are people who are facing bankruptcy, who entered into renovations within the framework of the law, and your discussion paper quite clearly identifies that at least two thirds of the work, by the ministry's own definition, was necessary. They entered into those expenses within the framework of the law. Will you not at least remove the retroactive aspect, which has been so much difficulty to all of the people here?

Hon Mr Cooke: I have indicated to you several times that the choosing of a date for Bill 4 was extremely difficult and any date that we chose was going to develop some controversy. I have also indicated to you that one of the items we would like to receive your input on, and certainly the input of people from across the province, is that the permanent system that we bring in—I am prepared to consider, as we go through the consultation process, the option of landlords who are in that predicament, who have expended capital and are not able to recover it under Bill 4, that we can look to the ability for them to be able to apply under that permanent legislation. I think that is one of the issues I need to hear from you on and to hear from people on during the consultation period. I have indicated that for quite some time.

1050

Mr Turnbull: Minister, will you then at least ask the Minister of Financial Institutions to move immediately to pass interim legislation to ensure that there is no mortgage moved upon against a landlord because he cannot meet his obligations due to this retroactive legislation? This is an emergency. This is not something for light discussion. We are facing the complete demolition of some of the small landlords who have got their life savings, their pension plan, in a small apartment building. We are not talking about the big landlords. They can weather the storm; the small ones cannot.

Hon Mr Cooke: I believe that there are a lot of difficulties in our economy right now, and certainly the Premier has indicated, and I believe the Treasurer has indicated as well, that we are now into the worst recession since the Second World War, since the last Depression. The reason that the recession is being felt so badly in Ontario and in Quebec is because the policies of the federal government on high interest rates and the high dollar have hit particularly—

Mr Turnbull: Minister, you know this has got nothing to do with that. This has got everything to do with your retroactive legislation. It has got absolutely nothing to do

with the high interest rates and it is absolutely ludicrous for you to suggest anything else.

Hon Mr Cooke: If you are trying to tell me that if it was not for Bill 4 no landlord would be going bankrupt, then I think you are living in a different world than I am. I know the problems of the economy.

Mr Turnbull: You obviously do not understand the legislation. They have acted within the law, and this is a regulated market, and now retroactively you are going to make these people go bankrupt.

Hon Mr Cooke: I do not agree with you. I do not agree how you analyse the effects of the bill and I have said that for quite some time. We have an honest disagreement. I mean, we disagree philosophically on rent control, period. That is a reality. That is why, you know, there are different political—

Mr Turnbull: This has got nothing to do with rent control. It has got everything to do with retroactive legislation.

The Vice-Chair: Order. Mrs Poole.

Ms Poole: I would just say to you, Minister, that perhaps you should discuss this matter with some of your colleagues who have sat on the Bill 4 hearings as far as the impact on a number of the small landlords and driving them into bankruptcy is concerned, because I think you may be perfectly right that some of these landlords would have faced bankruptcy anyway, but the information we have received as a committee is that most of the landlords who are coming to this committee are facing bankruptcy because of Bill 4. Whether or not you reinstate their right to apply for their losses once the permanent legislation is in place, bankrupt is bankrupt. They will not be able to recoup. I would ask if you could talk to them, particularly before we go into clause-by-clause, and look at this problem.

There are a couple of things. One is when you were talking about delaying the legislation by one year. I would suggest to you that what we are talking about, and what I am talking about in our caucus, is delaying the introduction of the legislation by three months, to delay it from June to September. This obviously would require two sets of hearings. The first would be the set of hearings on the consultation document, to go to the people and find out how they feel our rent review and our rent control laws should look. Once you have that material, you could then introduce your legislation in the fall of 1991. Public hearings on the legislation itself could be heard in the winter months, January to March 1992, which would mean the legislation would be in place six months later than if it would—

Hon Mr Cooke: There is a time period. I asked the same question when we were going through the timing of this and we discussed it within the ministry. The way that you have suggested it is exactly the way that I first approached it, and then it was explained to me the process that you have to go through, that it takes several months to develop the regulations to put in place the structures.

Ms Poole: Which it does in either event.

Hon Mr Cooke: But the thing is that it is not just simply a matter of delaying it for three months.

Ms Poole: I am saying six months total.

Hon Mr Cooke: "In six months" will mean the fall, because this will not be in place 1 January 1992. This will be in place in the winter of 1992, so that if the bill is passed by Christmas, then that gives us the opportunity to get the regulations done early in 1992 and get the bill functioning in late winter of 1992. But if we do not bring in the legislation for third reading until the spring session of 1992, then we are really looking at late fall, at the very earliest, that the legislation would be enacted. So there is a big difference between that six months, between having it done at the beginning of 1992 and having it done in late fall of 1992, a big difference. But if both of the opposition caucuses would prefer to proceed that way, I am willing to consider it.

Ms Poole: I personally feel very strongly that the delay of six months would be worth it to make sure the system that is put in place is fair and equitable and protects tenants and is not ill thought out. I was talking to the head of the Ottawa-Carleton Federation of Tenants Associations last week, and one of his major concerns is that it is to be rushed through and that not enough time be given for people to consult and to make sure that we are not rushing into something before we have thought it through. Perhaps we can have discussions on that with the three parties and reach a mutual decision on it.

One thing I wanted to ask you about, on page 24 of your consultation document, that the preferred approach would be that there be "no increase above the guideline for: interest rate changes, equalization, financial loss, hardship relief, economic loss, catch-up for below-market rents, maintenance costs, consultants' and other fees."

I wondered if the minister had ordered impact studies done by the ministry on these various provisions and has an estimate of what it might mean to the rental housing market.

Hon Mr Cooke: We can provide you with whatever information we have, but I can tell you that the idea behind this is that it has always seemed unfair that in most businesses, when people invest in those businesses, they do not expect to turn a profit immediately and they do not expect to have government intervention to guarantee them an eventual profit. Obviously, also under this section, we have had concerns, as you have in the past too, about the encouragement that the current legislation gives to the deliberate sale of buildings. So this whole area is an area that we certainly want to hear from people on during the consultation process, but this is our thinking at this point.

Ms Poole: I share your concern about the flipping of buildings, and I would certainly like to see provisions put into any legislation to ensure that tenants do not have to pay for that. But I am concerned that we do not have those impact studies, and to the best of my knowledge the Ministry of Housing does not have any, on what would be the ramifications, because while we have heard stories of abuse of some of these provisions, we have also heard stories where these provisions have basically not been abused but have been very helpful in bringing stability to the rental market. What I would like to ask you for is that

the Ministry of Housing actually conduct impact studies and that it utilize the statistics that it has and procure any additional statistics that it might need in order to say what is going to happen if this is totally eliminated.

Hon Mr Cooke: Okay. Colleen was indicating that we do have some information. As I have told you, I have looked at some of it myself. We will give you whatever we have, and if there is additional information that you would like, we will see if we can get a hold of it. But I would say to you that you know as well as I do that while you can use the argument that this section of the current legislation has been helpful at bringing, as you said, stability to the market, there have been great concerns expressed by tenants about the phase-ins and how that just is a way of ultimately, over a period of time, making housing unaffordable. This is a major area that tenants have expressed concern about. As a tenant activist, you know that as well as I do. So I hope that your roots, your former roots anyway, of being involved in the tenant movement, you will not forget some of those things that you used to say when you would go to the tenant rallies that I went to.

1100

Ms Poole: I think, Minister, if you look at the record I have been very consistent. The things I am fighting now—necessary repairs, having it capped, stopping flippings—I still remain just as steadfast as I ever have been. I want changes to some of these things, there is no doubt about it. I do not like the way they are working under the current system.

What I am saying is that you have got a preferred option here of just completely eliminating them and I would like to see the impact. I do not know, it may be that there will not be a dramatic impact, but certainly there have been impacts under Bill 4 that I did not envisage when you first introduced the bill, that they were going to be as dramatic, and I want to prevent that from happening so that we have thought it out well. It may be at the end of the day we concur with you that many of these things you do decide should not be in, but I am saying we cannot make a qualified decision.

Hon Mr Cooke: We will get as much information as we can get for you.

Mr Mahoney: Minister, I do not know who devised this strategy but it is one of the cleverest manipulations of the committee process I think I have ever seen, both in my time here at Queen's Park and in my previous 10 years in municipal government. I think it is absolutely incredible. What you in fact are doing is putting forward one of the most distasteful pieces of legislation, in the form of Bill 4, and saying, "If you want us to leave Bill 4 in while we will take two years to go ahead through this consultation process, then that in fact becomes the decision of the opposition," and that is absolute nonsense. What you are doing is putting a gun to the head of the opposition and saying, "If you want to leave this terrible legislation in place"—and you know as well as I do that our caucus supports the principle of protecting tenants, which is why many members of caucus voted in favour of it to get it out to committee for discussion.

Here we have a bill where your members have turned down 150 groups which wished to make presentations before this committee, which have serious concerns. We have a member of this committee asking you to reconsider a certain aspect of that bill that is going to bankrupt people and you tell us that you have a different philosophy. I do not know what in the world philosophy has got to do with the young man whom we saw in London, Ontario, who along with his wife is going to lose the 12 units that they have worked for the past 10 years to build up and lived in and renovated and done the work on personally. They are going bankrupt because they have conditional orders approved under the former legislation, and you are just wiping that out. That is not very philosophical.

I guess what I find so frustrating here is that you have brought in a paper with very few positions taken by your government. You certainly had positions in your agenda for power, there is no question about that. Your position on rent control was very clearly laid out in your agenda for power, but it is no longer part of the government's dialogue, and you come forward with really more problems than solutions that you have presented in this document. Turning things over, what you used to criticize us, rather eloquently and on a regular basis, for the passing on of responsibilities to the municipal level, you are even suggesting the municipalities administer a reserve fund created province-wide through some new tax that the NDP government is going to place on building revenues.

I am sure that my mayor and others would be extremely interested to discuss such a responsibility that you are suggesting. I realize you are putting it out as an option because it is easier than taking a position, it is easier than your government coming forward with a clear plan, which you were always so quick to do when in opposition. But I think you have manipulated this committee into a position where the opposition critics have to decide how long do we want to live with the distasteful aspects of Bill 4, because you are stuffing that down our throats, without a doubt. We have put forth amendments. We have not seen any from you.

So if we want to delay this and go out for long consultations on the green paper, it means that Bill 4 will be in place longer than of course we would like to see it, and some of us would not like to see it at all without the changes.

You talk about options, that you would like to sit down so amicably in this kinder, gentler place and work out with members of the opposition. An option would be for you to either agree to some of the amendments being put forward, particularly with regard to retroactivity, particularly with regard to conditional orders, particularly with regard to money already spent by landlords, agree to some changes in the legislation in Bill 4 and maybe, just maybe, you would find members of the opposition attempting to be a little more co-operative in coming up with a comprehensive strategy on housing and rent controls.

All three parties are responsible for rent controls. They were introduced by the Tories, who are now extremely opposed to them. They were exacerbated, I might say, by the Liberal regime, and we now have a lot of problems

with them. And now what you are doing is just creating untold additional pressures and problems.

My critic put forward a very comprehensive list of amendments to Bill 4 on Friday morning at a press conference here at Queen's Park. I believe that the Conservatives have a number of amendments. I understand that there were some minor housekeeping amendments introduced in Ottawa. I was not with the committee in Ottawa, but I understand that some government member introduced some housekeeping, dotting of i's and crossing of t's—really radical stuff.

I would like to suggest that the minister come forward with your suggested amendments, if indeed you have any, and that in a spirit of co-operation you do a couple of things: that you invite the critic from the Liberal Party and the Conservative Party to go with your entourage as you go out to listen to the people. I think that is the very least you should do, to get all viewpoints out there, so that our critics have an opportunity to hear what the people in Sault Ste Marie and Thunder Bay feel about this consultation paper, rather than getting it back from the honourable members opposite, or as perhaps massaged by you and your bureaucrats after you get an opportunity to get it back in the confines of your office. That would be number one, that you invite Ms Poole and Mr Tilson to accompany your group, perhaps with some staff from each party, to assist in deliberations and consultation, if you want true consultation. We, after all, do represent certain ridings in this province that have concerns. They are not all, as you know, represented by NDP. Some of us did survive and some of us feel we have very serious concerns.

Mr Mammoliti: What a shame.

Mr Mahoney: The second thing I would like to suggest, George—there are some shames around here, I can tell you that—is that you table whatever amendments you have and that you give serious control and stop talking to us about philosophy when it comes to people losing their businesses and their homes, when it comes to people declaring bankruptcy because of some unjust retroactive clause in a piece of legislation that you have brought forward.

You see, once Bill 4 is put in place and the legislation is hammered down, which in your majority way you can do in this system, the landlords are going to be bankrupt anyway, the small landlords that we are talking about. The large ones are going to weather the storm, as has been said. So I do not know that it much matters, once you get past implementation day of Bill 4, as to whether or not it stays there for six months, one year or two years. I do not really know if that matters, because they are going to be gone and out of business.

The people we are talking about are the people who have spent the money. Based on the existing legislation, based on commitments by the existing legislation, based on conditional orders, they have spent their money. You are ignoring them and pretending that it is a philosophical disagreement between you and the Tories or you and us, and that is absolute nonsense.

So I would ask you to invite our critics on your tour; I would ask you to table your amendments; I would ask you

to allow for extension of public hearings on Bill 4 to allow the 150 people who have been shut out in this supposedly democratic process to come forward in some way and present their concerns; and I would ask you to show some compassion and understanding, as we have had to sit here and watch people break down emotionally in tears because your legislation is destroying their lives. I would ask you to consider those requests.

1110

Hon Mr Cooke: Every time rent regulation is dealt with, the member will understand that it becomes a very emotional issue. I remember the same scenes occurring after the 1985 election when the public was dealing with Mr Curling's legislation. So let's be realistic about it. Rent regulation is something that brings out very emotional reactions from people on both sides of the argument.

I would certainly be willing to sit down with the opposition critics and talk to them about the consultation process that we are carrying out as a government. I should indicate to you, and I think you will appreciate, that there is a difference between consultation that a committee of the Legislature carries out and consultation that is expected that a government is going to carry out. At this point I happen to be the minister and I thought that it was important that there be a consultation process that is carried out by the ministry and by the government. So I appreciate the argument that you are making, and it is something that I have thought about, but I thought that there should be a process that the government goes and consults on as well for the permanent legislation, because ultimately we will be developing a policy for the government that government will then present to the Legislature for its review. It is not unlike the process that your government followed for development of the county government reform process where you had a committee of only Liberal MPPs travel the province, but I certainly would be willing to sit down with your critic and with the critic for the third party to review with you the schedule that we have for our public consultation and see if there is a way that you can be plugged in to that to some extent.

I should indicate to you that it is not our intention to go and have meetings where we have debates among the three political parties about rent control. The purpose of this consultation is to go and listen to people and to try to elicit specific responses on specific issues that we need input on. I would not want to develop a process where the critics and the minister go on a tour and debate rent control for the people of the province. They can watch that on cable TV, I guess, once in a while.

We need to go out there and listen to people across the province about this issue. Some of the meetings that we have scheduled are public meetings, and I would suggest that either the critics and myself sit down and take a look at the schedule or that our staff will do that and take a look at it and see if there is a way that the critics can be brought in to some extent as well.

We have tabled our amendments to Bill 4, but I am certainly looking at the amendments that your member has presented. I would say that my initial reaction, without

sitting down with ministry people or with my own staff, is that the effect of the amendments would basically be to mean that there would not be a moratorium. As you know, there already are 130,000 units in this province that are going to go through the current rent review system that are not affected by Bill 4. Every time you make an amendment, like the amendments that are suggested by your Housing critic, many more units go through the system under the current rules. So that while on one hand you argue about the financial hardship that landlords are experiencing, if we accepted the amendments from your critic the argument would very clearly be that there will be thousands of tenants who will experience financial hardship as a result of those amendments.

That is a judgement that I had to make and put forward Bill 4 with its dates in it and with the balance that I thought was appropriate. There are still 130,000 units, or more than 10% of the units in this province, that are going through the old system. That will increase considerably if we were to accept Ms Poole's amendments. So I have difficulty with that.

Finally, Mr Mahoney criticized the green paper because it did not have preferred options in every area. I would suggest that it does in most of the areas, but your critic just a few minutes ago criticized me for having any preferred options. So I am not sure whether we should have done it Dianne's way and had no preferred options or whether we should have done it Steve's way and had every one with a preferred option. Either way, obviously I would have been criticized.

Mr Mahoney: The price of being in power, I suppose.

Hon Mr Cooke: I do not mind.

Mr Mahoney: I am sure you do not.

A couple of things. First of all, I quite agree. I am not suggesting that you take the critics from each party around to conduct debates in all the communities. I think it would be important to listen. My concern is that I think our critics should be able to hear it first hand and not have it—and I do not think there is any comparison between that and the county government situation at all. It is a totally different situation. We did other things in small business where we went around seeking input on behalf of the government, but we were not going around with either legislation having just been jammed down their throats or with the threat of some green paper coming in with all kinds of options. It was purely consultation to gain information in both of those cases, and that is not the case here.

You did answer on the amendments—I have them here—that were tabled in Ottawa, the government's amendments. I would ask you to recognize that there are a dozen of Ms Poole's amendments, and I would hope that if you do not like one of them, you would not use that as an excuse to ignore the other 10 or 11 that could have some merit. I would ask you to respond in some detail to each of those amendments. And I did not hear an answer about whether or not you would make arrangements for the 150 groups that have been shut out to come before this committee.

Hon Mr Cooke: I think that we have a tremendous amount of opportunity, when you take a look at the hearings

that you have had so far on Bill 4 and then the hearings that you will have on the green paper, and I would hope that the House leaders will be able to work out some arrangement that when the House comes back there will be some opportunity for the committee to meet as well, and then when the permanent bill is introduced for second reading it will go out for public hearings in the summer, so there will be a large opportunity to do that.

Mr Mahoney: Not on this bill.

Hon Mr Cooke: Having served in opposition for 13 1/2 years, I know that every time there are public hearings on a bill, politically it is very useful to say that every person who has applied to the committee to be heard has not been heard and therefore the process is a sham. I said that many times myself when I was in opposition.

Mr Mahoney: Did you mean it?

Hon Mr Cooke: I meant it about as much as you did today.

Mr Mahoney: Then you definitely meant it.

Hon Mr Cooke: At some point there has to be an end to the public hearing process, because at some point we have to get on with deciding what we are going to do with the bill.

Mr Mahoney: So your answer is no on the 150 groups.

Hon Mr Cooke: As you know, I am not a member of the committee.

Mr Tilson: I have two questions of the minister. I am wondering if he is prepared now to elaborate on the road show that is being planned with Ms Harrington and Mr Abel and yourself. You indicated that you are going to some cities. I would like it if you could say which, or not necessarily which ones, but how many. And you have indicated that some of those meetings are public and some are not. Could you clarify some of those areas as to specifically what your plans are for consultations?

Hon Mr Cooke: I will get you a list of all the communities that we are going to, because I do not remember. I believe there are something like 20 communities that we are going to between the three of us, and there are seven public meetings. The difference, of course, between the public meeting is that at those public meetings anybody can attend and then other types of meetings we are having are specific meetings, whether it is with the landlords' group in eastern Ontario that I have met with once and I am going to go back and meet with again or the federation of tenants in Ottawa or smaller groups, those specific meetings where we deal with one group as opposed to a wide-open public meeting.

This will be, I believe, one of the largest consultation processes that a minister has ever had, and as I indicated in my opening statement today, we are also sending out to tenants rights across the province a summary of the consultation document and asking for their feedback as well. So there will be lots of input and I am sure that we would be willing to share the responses that we get back from tenants with the committee as well, the written responses, as best we can. I have no idea what the response will be.

Mr Tilson: I am wondering whether you are suggesting that perhaps this committee hold off on any thoughts that it may have as to the green paper until after that period of time, after your consultations.

1120

Hon Mr Cooke: I do not think so. I think that, as I indicated a few minutes ago, if you and I and Dianne would like to speak we can take a look and see if there is a way of plugging you in to some of the public meetings. But realistically, in terms of the timetable, if you do not have some hearings on the green paper and do not provide me with some kind of a response, there will not be the opportunity for the committee to do that, unless we adopt Dianne's scenario of a longer period of time. You know, believe it or not, and I am sure you do not, but there was not a deliberate attempt to set this up and manipulate the—

Mr Mahoney: You cannot be this good by accident.

Hon Mr Cooke: Well, that is exactly what happened.

Mr Tilson: Is it a fluke?

Hon Mr Cooke: It is a fluke.

Ms Poole: Are you saying the only way you can be this good is by accident?

Mr Mahoney: So it is like the election results.

Hon Mr Cooke: No, because that was a collective fluke.

Mr Tilson: I trust that more information will be made available as to those hearings that the government is proceeding with. I know that both the opposition parties would be interested in hearing that and having some sort of access to that consultation process.

As I say, I quite frankly find it very difficult for this committee to provide an intelligent response on three days of hearings when you are going to be going to 20 cities or more. Plus, when I see the amount of material that came to my office as an opposition member in response to Bill 4, and you probably received triple what I received, I shudder to think what we are going to receive on this. There are going to be a lot of people wanting to speak on this position, and I just find it impossible for this committee to provide comments on three days. I am not necessarily agreeing with Ms Poole as to stretching out the proceedings, but at the same time, I do not think that this legislation should be rammed down our throats.

I have one question that arose out of proceedings that took place in Ottawa, in which case it was pointed out to us that, contrary to the belief that the New Democratic Party has had in the past at least, that landlords, when they sustain losses, could simply write them off as a tax loss, that is not the case, and that has to do with implications not only from the federal government but from provincial government. My question to you is whether you were aware of this implication on Bill 4 and on the document that you have presented to us this morning.

Hon Mr Cooke: You will appreciate that I do not know what went on in Ottawa because I just got back in from out of town on Saturday, so I have not been briefed.

Mr Tilson: Physically you look good. The rest of it I am not so sure about.

Hon Mr Cooke: I am not going to ask you about the other half. But perhaps Colleen would like to respond.

Ms Parrish: I would say that we are aware of the fact that the deductibility of tax income for rental properties is somewhat complex. You cannot simply deduct losses on rental property against ordinary earned income, for instance. So it is not an absolute loss. It depends on the kind of business structure you have and what other kinds of losses there are. You can deduct losses and you can average them forward and backward and so on, but they are not deductible against ordinary earned income. That is my understanding.

Mr Tilson: As I understand it, the rationale that was given to us in Ottawa at least was that you had to show there was a reasonable expectation of a profit on apartment buildings in the future in order for a deduction to be given. That is the issue, and I guess my question to the minister or to his staff is whether they were aware of that implication when they drafted Bill 4 and when they drafted this green paper.

Hon Mr Cooke: Colleen has explained to you her point of view and I will want to get some more information to get a better understanding of the presentation on Friday.

Mr Tilson: Yes, I appreciate that. Mr Chair, before we rise this morning, I wish to put the committee on notice that I would like to make a motion on this subject.

The Vice-Chair: Thank you, Mr Tilson. Ms Poole.

Ms Poole: I feel like it is a ping-pong ball here going back and forth. Minister, I would like to talk to you about some of the amendments I tabled on Bill 4, because it is actually going to have an impact on how we deal with the consultation paper, the green paper. For instance, if it appears that you and your government are not willing to accept any amendments whatsoever on Bill 4, then we would have much greater reservations about leaving this bill in place for an extended period of time. Would you like to comment at this time on my amendment on capital expenditures, which actually very closely mirrors what you have considered as an option on page 27 of the long-term document, whereby the landlord would be allowed to claim for repairs that were, in the opinion of the minister, necessary to ensure the structural integrity of the building or the health and safety of the tenants or where there is a petition by two thirds of the tenants approving of the repair and that this approval would also be linked to ongoing, deliberate neglect and the quality of the repairs? Do you have any comments to make on that particular amendment at this time?

Hon Mr Cooke: I am not actually prepared to go through each of your amendments today. I was prepared to come here and talk in an initial way about the consultation document. We will be going through Bill 4 clause by clause starting tomorrow.

In a general way, I think the problem that I have with your amendments is that you are seeking to amend Bill 4 in such a way that it would, in your view, provide a permanent or a longer-lasting solution to the rent regulation issue. I think that many of your amendments are very helpful to me in terms of direction that I think you are suggesting we might want to go in with the permanent legislation, but

with Bill 4 I think that, generally speaking, the bill is seen as being a temporary piece of legislation and we want to come up with the more permanent and long-lasting solutions in the permanent legislation.

Ms Poole: Perhaps I should clarify for you that my intention has never been to make Bill 4 a permanent piece of legislation; my intent has been to make Bill 4 livable until such time that the long-term legislation is in place. The amendments, whether for tenant protection, a provision for necessary capital repairs or the retroactivity, all three were offered in that spirit.

If your fairly ambitious plans of getting this legislation through within the year are not realized—the long-term legislation, that is—it means that Bill 4 can have a far greater devastating impact than you would have, I think, originally envisaged. To me, making Bill 4 livable does not equate with making Bill 4 permanent.

Hon Mr Cooke: Again, I have only read through your amendments and I have not gone through them in their entirety with people from the ministry, but I understand one of the difficulties with the amendment on capital is that under the current structure within the ministry there is not an administrative setup to try to make some of the decisions that you would like to make in terms of what is structurally necessary for capital changes in a building, and that while we might all be able to agree with the principle that you are talking about, if we accepted those types of amendments under the current legislation, they would not be workable because we have not got the structure in the ministry to back them up.

1130

Ms Poole: It seems to me we have a \$40-million-a-year structure in the ministry right now that could very easily cope with this type of thing. I had long conversations with John Sweeney a year and a half ago when I was trying to get—

Hon Mr Cooke: He said it could not be done.

Ms Poole: No, John Sweeney said it could not be done, and the legal opinion he had from the ministry is that my amendments on necessary repairs could not be done via regulation, that there would have to be a legislative amendment to the actual act, which is what we have got here with Bill 4. The legal opinion said what I was trying to do was beyond the scope of regulations but not beyond the scope of a legislative amendment.

So I would ask you to revisit that issue, because if as a government you are going to decide not to accept any amendments on Bill 4, first of all, this whole hearing process has been a mockery, because my understanding was from day one you sat at the front of this committee, right where you are sitting right now, and said, "We will be entertaining amendments." I would not have spent hundreds and hundreds of hours working on this committee to try to get a fairer system if I had thought that no amendments were actually going to be entertained. I think we have to look at it comprehensively, because if you are going to look at the consultation document and try to make a decision on the time frame, surely you have to make a decision as to whether Bill 4 is livable in its current form and how long it is going to be livable for.

Mr Turnbull: Minister, as you are aware, under Bill 51 the "chronically depressed" clause was never enacted. There has been discussion with this committee—and it is reflected in this discussion paper—of the concept of capping the capital allowances. Have you considered introduction of the "chronically depressed" clause of Bill 51 because clearly if you have a 5% increase—Ms Poole has actually suggested a 5% cap, and if you have a 5% cap on a \$300 rent, that is \$15, whereas if it is on a \$1,000 rent, it is \$50. We have heard around the province that there are places that have rents of \$50 and \$100 a month. There are not many of them, but there are some of them. Unless you enact the "chronically depressed" clause, I think the suggestion would be that you replace your roof shingle by shingle. So my question to you is, are you considering enacting the "chronically depressed" clause of Bill 51?

Hon Mr Cooke: I am not considering enacting anything under Bill 51. The green paper is a document that sets out issues that need to be discussed to develop a brand-new piece of legislation. In terms of the issue of "chronically depressed," like any other issue that must be decided upon, I will look forward to input from people during the consultation process. No final decision has been made on whether or not there will be a "chronically depressed" section in the permanent legislation.

The Vice-Chair: Seeing no other questions from the committee, I would suggest to the committee that we adjourn till—

Mr Tilson: Mr Chair, I do have a motion I wish to make before we rise.

The Vice-Chair: Right, of course.

Mr Tilson: Is there someone there who will write something down? I do not have it typed, unfortunately. It has to do with the taxation issue.

The Vice-Chair: I will attempt to write it down.

Mr Tilson: Oh, all right.

The Vice-Chair: Maybe you should attempt to write it down.

Mr Tilson: I can give you what has been scrawled out here, and hopefully it can be interpreted by you. I will read the motion, Mr Chair. Again, I think the purpose of making this motion now is that it becomes more and more apparent that the government has not considered this issue. We did make a motion in Ottawa, of course, which was defeated, that a tax expert be invited prior to the clause-by-clause discussions. It was conceded that a tax expert could be invited after the clause-by-clause discussion, which is a strange position to take. However, I honestly believe that this committee needs to receive this information from someone. The government obviously does not have—

The Vice-Chair: Excuse me, Mr Tilson. It would be helpful to me if you would put the motion and then we can discuss it.

Mr Tilson: All right. I will give it to you on a little piece of paper, Mr Chair, because that is all I have. Perhaps I could read it first, Mr Chair.

Mr Mahoney: It must be short, from the size of that.

Mr Tilson: Oh yes, it is.

The motion is that the committee invite a representative of the Ministry of Revenue to discuss the tax implications of any ruling by either the federal or provincial government which would have the effect of disallowing a claim for a loss due to there being no reasonable expectation of a profit on apartment buildings.

That is the motion and I think the government official has admitted that the information the government does have on that is very sketchy. I think at the very least, presumably, there is a representative from the Ministry of Revenue who could come tomorrow, on such short notice, to comment on this legislation and the tax implications, even from the provincial point of view, and I am sure that that official will have been discussing with his federal counterparts at the same time. The information that was given to this committee, as you recall, was that this seems to be a new development that has occurred from the federal Department of National Revenue, and in light of that I think the committee should receive this information before we get into the clause-by-clause discussions.

The Vice-Chair: Thank you, Mr Tilson. Is there further discussion of the motion?

Mr Tilson: I will say I am suggesting that that person, whoever it is, from the ministry come tomorrow morning, prior to the clause-by-clause discussion.

The Vice-Chair: Thank you, Mr Tilson. Mrs Poole?

Ms Poole: Mr Tilson just answered my question.

The Vice-Chair: Following on the discussion of Ottawa, maybe just for some clarification, I know that Mr Richmond of the research staff was looking into the Revenue Canada implications and was checking on that. Maybe it would be helpful to the committee if he could clarify that status.

Mr Richmond: With us being back in Toronto, I consulted with one of my colleagues, Ray McLellan, whom you may know from other committees, the standing committee on public accounts and the like. Ray has an economics background. I briefed him this morning and conveyed some stuff down to Toronto on Thursday or Friday. He is contacting senior officials with Revenue Canada in Ottawa to attempt to determine, as we heard in Ottawa from that woman, whether in fact Revenue Canada has recently changed its tax treatment policy vis-à-vis rental residential property to no longer allow as liberal a pass-through or write-off of losses. So we are attempting to get from high officials in Ottawa an answer to that question. As soon as we do, we will be conveying that information to the committee. We are also assembling a list of tax experts for the committee, for you to choose one of those officials, as I understand it, to come before the committee next week. As soon as we have this information, we will provide it through the Chair. That is really the status of those queries at the present time.

Mr Tilson: That information of course will be very useful. It is too bad it will not be available prior to the clause-by-clause. This information, however, I think could be. I think that it would be very simple for a member of the provincial Ministry of Revenue to appear before this

committee and provide the comments as requested. I think as well it would be useful to have the minister present at the clause-by-clause discussions. He has indicated that, for personal reasons, he is unable to attend. In light of that, I think it would be all the more reason to enable a ministry official to come tomorrow morning.

Mr Mammoliti: I am just a little bit sceptical about voting on something and for nobody to show up. I mean, can somebody show up tomorrow morning or not?

Mr Tilson: You are the government.

Mr Mammoliti: Well, the staff are here. Maybe the staff can answer whether somebody is available or not. That is the question I would like to ask, will somebody be here? What is the point in voting if nobody is going to be here.

Ms Poole: He is talking about the Ministry of Revenue.

The Vice-Chair: Mr Mammoliti, in the absence of staff from the Ministry of Revenue, I do not think that undertaking can be given by anyone, but I would suggest that in all probability they would have someone—

Mr Mammoliti: That is an assumption.

The Vice-Chair: —and if they cannot, I assume they will not be here.

Mr Mammoliti: How can we vote on it if we do not know for sure? How can I vote in favour of the motion if nobody has come forth and said they are going to be here?

The Vice-Chair: For clarification, Mr Mammoliti, the motion says "invite." That does not say they have to come.

Ms Poole: Just a matter of clarification: I was just speaking briefly to Mr Richmond, our researcher, and he mentioned that Ray McLellan is trying to reach Revenue Canada today, so we may have an answer quite shortly. I wondered whether perhaps the way we should leave it is to see, within the next 24 hours, what response we get from Revenue Canada, and if at that time it is deemed necessary that there be someone from the Ministry of Revenue to supplement, we could make that decision. So we could perhaps pass Mr Tilson's motion but without a time line on it.

The Vice-Chair: I think I heard a motion to table.

Mr Owens: I move to table Mr Tilson's motion.

The Vice-Chair: It is a motion to postpone.

Those in favour of Mr Owen's motion to postpone?

Opposed?

Motion agreed to.

Hon Mr Cooke: I just want to point out that Anne Beaumont, Colleen Parrish and Dana Richardson are the people who, along with others in the ministry, whether you agree with our green paper or not, have worked extremely hard at pulling this together and I just wanted to publicly express my appreciation of all the work from the ministry.

The Vice-Chair: The committee will adjourn until 2 o'clock, when we will hear from ministry officials. Before we go, I would comment that the subcommittee will be holding a short meeting, if Mr Abel, Mr Tilson and Mrs Poole could stay here for that brief meeting. See you at 2.

The committee recessed at 1143.

AFTERNOON SITTING

The committee resumed at 1408.

The Vice-Chair: Good afternoon. I see a quorum. This afternoon we have a number of faces familiar to this committee in front of us to lead us through a briefing on the green paper. I would ask the officials of the Ministry of Housing if they would introduce themselves just so Hansard knows who you are—I think we do now—and begin your presentation.

Ms Beaumont: I am Anne Beaumont. I am the assistant deputy minister of housing policy in the Ministry of Housing. On my right is Colleen Parrish, our director of housing policy; on my left Dana Richardson, who is manager of existing housing stock policy; and a face I think may not be familiar to you yet is Susan Taylor, who is the manager of rental housing protection administration.

The committee, as you indicated, has gotten to know some of us already during its deliberations on Bill 4, and during those discussions there have been many references to the form and the content of the anticipated tone of legislation on rent control. We are pleased to have the opportunity today to review with the committee the government's consultation paper. What we planned on doing is taking you through it fairly quickly. It is a rather complex paper. We wanted to explain the options addressed in it and allow plenty of time for discussion and questions from the committee.

Let me indicate right up front that if the committee wishes us to attend again at another time for further discussion and questioning, we would be quite happy to do that.

The Vice-Chair: Let me interrupt right now and ask the committee members if they would like to ask questions as we go through this presentation or wait till the end of a particular section. What are the wishes of the committee?

Mr Mammoliti: Better ask the opposition. They are the ones who ask all the questions.

Ms Poole: Originally I thought that the best way to deal with this would be to have questions at the end of each section. I am a little concerned, though, that we might not get through the entire document if we do that, so maybe it is best if we just jot down our questions as we go along and ask questions at the end. I am just thinking from the perspective of doing this in a timely fashion.

The Vice-Chair: Is that agreeable? Fine.

Ms Beaumont: Okay. When we made a presentation to the committee on Bill 4, we gave you at that time a history of rent review in this province, some statistical information and an explanation of some of the concepts behind rent regulation in Ontario. We do not plan on repeating that today. You have the material and additional material we have presented to you, but if you wanted more information we would be more than happy to provide it. You will find, as someone mentioned this morning, that the appendices to the green paper include a glossary and some of the key statistics.

The paper itself opens by placing rent control in a broader housing policy context and then indicates eight

policy principles that guided the development of the options for rent control. The bulk of the paper addresses nine key issue areas and the background to each of those issues is established so that they can be more readily understood because, as people have mentioned, it is quite a difficult concept.

The options that were considered are indicated, including some that are felt to have some difficulties, and these are explained in the paper. In many cases, the government's current thinking is indicated as a preferred approach for consultation purposes, but let me emphasize, as the minister did this morning, that this is completely subject to the results of the consultation process. It was felt it may be easier for people to respond to the paper if they had an indication of the current thinking in some areas. As rent regulation is a complex subject with interrelated features, what you may think on one issue may be dependent on how you believe another issue should be addressed. You will note that in some areas no preferred option is indicated, notably in the area of capital, perhaps the most controversial issue in rent regulation, as you have heard over the last weeks.

My three colleagues will lead you through the various issues, but what I wanted to do was simply to comment on the policy context, and the development of rent control legislation is only one component of the government's planned development of a comprehensive housing strategy, based on four fundamental principles referred to by the minister and outlined on page 1 of the handout. Everyone, I assume, has the handout material. Those four principles are:

1. Access to safe, secure and affordable housing suitable to people's needs is a basic human right. The rent control legislation fits into that concept where we have the comments on safety, thinking of things such as maintenance; security from eviction; and affordability, which is an obvious link.

2. Housing is fundamental to individual and family wellbeing and the quality of life in Ontario communities, with the concept that you cannot have a well-functioning society when people are ill-housed.

3. Housing contributes significantly to the prosperity and stability of Ontario's economy. You can think of and you have had reference made to the large number of jobs in construction, and also you may have heard employers talk of the difficulty of sustaining business in this province when housing costs are very high and incompatible with income levels in a community.

4. Responsibility for the provision of housing is a shared responsibility among all levels of government and among all sectors of Ontario's economy and society. That is a comment on it being both a public and a private responsibility.

These principles guide us in what housing issues we tackle first and in how we tackle them and they have led to the establishment of priorities for housing policy development. These again are listed on page 1: the better use of

government land for housing, improving the quality of life in public housing and strategies to increase the supply of affordable housing, in addition to rent control legislation. Work is proceeding within the ministry on all of these fronts and all of these areas will be subject to broad public consultation as the papers are developed.

This then forms the broad context of philosophy and priority-setting.

In the development of options for a new rent control system, again we established a series of specific policy objectives or principles. These have been used in the following way: As policy options were considered for each of the nine issues, they were tested against these principles, so I wanted to emphasize to you the importance of the principles and that you may want to constantly refer back to them as you review the paper as you think about the options listed and others that will be suggested.

Unfortunately, this is not a simple litmus test, as a particular option may strongly support one principle and violate another. For example, there may be options that would lead to greater tenant participation that may at the same time lead to increased complexity or less speedy decision-making. So it is not a simple ticking off of, do things comply or do they not comply to the principles?

Let me just read through, for the sake of Hansard as much as anything, the principles listed on page 5:

1. Enhanced tenant protection. As we talk of tenant protection here, we are thinking of both physical protection, for example from poor maintenance, and also protection from high and unpredictable rent increases.
2. Greater tenant participation in decision-making about their home.
3. A decreased complexity, both in the legislation itself and in the administration of that legislation, and together with that, greater predictability for all parties about the levels and timing of increases.
4. The legislation should at the same time be separate from the Landlord and Tenant Act, which deals with much broader issues than residential tenancies, but also the two pieces of legislation should be compatible so as again to decrease confusion that may exist in people's minds.
5. The creation of an environment of regular maintenance and repair. This leads us perhaps into the area of greatest controversy. No one disputes the need for maintenance, no one disputes the need for repair, and you have had many discussions around this table on how to ensure that this happens and who pays for it.
6. Enhanced information—more, better, clearer information to both tenants and landlords.
7. Fair, accessible and speedy decision-making. I am not going to make any comment on that; that speaks for itself.
8. The retention of the existing rental stock. There were comments made just this morning on the need for more affordable rental housing than we have, and one of the principles is not to lose the rental stock that exists.

The paper, as I indicated earlier, addresses nine major issue areas. These are listed on page 6: The scope of rent control coverage; the basis of the annual increase; increases above the guideline; capital expenditure; maintenance; rent

reduction; rent information; the decision-making mechanisms and administrative structure; and rental housing protection.

What we now want to do is to take you through each of those issue areas to discuss the issues with you and to discuss the options that are being considered. Dana is going to start.

Ms Richardson: I am going to begin by discussing the first two issue areas, the scope of rent control and the annual rent increase guideline.

The scope of rent control is found in the larger consultation paper on pages 7 to 9. The issue is, what should be covered by a rent control system so that landlords, tenants and others will know if a particular building or unit is indeed covered by the rent control legislation.

There were three major options considered: first of all, whether to have a specific list of inclusions and exclusions from the legislation. This is a very similar approach as found in the current legislation, the Residential Rent Regulation Act, which covers virtually all residential rental buildings in the province of Ontario now.

1420

There are some specific kinds of accommodation which are excluded from that coverage. The kinds of exclusions are such things as seasonal vacation homes, motels, hotels, transient living accommodation, nursing homes and other licensed facilities and staff accommodation when that accommodation is attached to the employment situation. Many of these kinds of exceptions are also set out in the Landlord and Tenant Act legislation, but the two pieces of legislation do not have exactly the same wording, nor do they have exactly to the precise detail the same coverage, so the second major option was to more closely mirror the landlord and tenant legislation. This would support the principle of compatibility, which was one of our main objectives in the exercise.

However, if mirroring the Landlord and Tenant Act is the chosen option, there are some differences that would be different from what the current coverage is right now. The Landlord and Tenant Act currently exempts from landlord and tenant legislation accommodation where the owner shares a kitchen and bathroom with the occupant or tenant, and that kind of situation could currently be covered by rent regulation. However, it was thought that if somebody could be evicted without any notice, the protection of rent control as to the amount of rent that would be paid is actually quite meaningless. If they refused to pay, they could simply be evicted. So bringing those two pieces of legislation together would mean that there would be some change in the current legislation for rent control coverage.

Some of the other things that we looked at were whether there were certain classes of buildings that could be exempted from rent control coverage, such as areas where there were landlord and tenant agreements, if there were very high rents in a particular building or if there were high vacancy rates in a certain location. However, this would reduce the protection that was provided to tenants in other situations in other parts of the province, so that failed the test of one of the major principles of this paper, which is increased tenant protection.

Taking all of these options into account, the preferred approach, as set out in the paper, is to follow the general coverage of the Landlord and Tenant Act, but with two exceptions.

The first exception would be that the accommodation component of certain unlicensed care facilities would be covered by rent control legislation. An example of these kinds of facilities would be rest and retirement homes that are not licensed—they are not nursing homes or homes for the aged—but they provide certain special services for seniors or for people who need extra medical or personal care. Currently under the legislation those kinds of facilities are exempt from both rent control and landlord and tenant protection. There is a commission of inquiry right now under Dr Ernie Lightman, who has been appointed by the Minister of Citizenship to look into these kinds of unlicensed facilities. However, it also overlaps with our rent control discussion, and so we are bringing it forward now as another element of our paper and what we are suggesting is that the separation be made between what is paid for the accommodation component and what is paid for the care services component of that kind of accommodation and to prohibit tying those two together unless it is a special arrangement, such as certain programs under the Ministry of Community and Social Services where the government funding depends on the tying of those two services and the accommodation.

The second exception to the Landlord and Tenant Act coverage would be to exclude non-profit housing units financially supported by the federal and provincial governments. This obviously will be a matter of some discussion and public debate, but it would maintain consistency within a project if all units were treated exactly the same instead of having market units and rent-geared-to-income units being treated differently in the same building.

So the final package then would be to virtually cover all residential rental buildings in the province and the exceptions would be those that are presently covered by the Landlord and Tenant Act and the two exceptions that I have just mentioned.

A related issue is, how do people find out if a certain building is covered? The proposal is that an application be made available that a landlord, tenant or under a minister's own motion or some other mechanism like could determine if a specific rental unit or a specific building was covered by rent control and then at the same time, unlike under the current system, have a determination made of what the lawful rent is. Under the current system you actually have to make two separate applications in certain circumstances to find out that piece of information.

The next major issue area concerns the annual rent increase, and it is found in the long paper on pages 11 to 14. This concerns what we have been referring to throughout as the annual rent increase guideline. There are a number of options and combinations of options that you could look at in this situation.

The first option would be whether to have a fixed or flexible guideline. A fixed guideline would remain the same over a number of years and would not be changed. Indeed, this was the system that was in Ontario prior to 1

August 1985, where for certain periods of time there was a fixed guideline, initially 8%, then 6% and then 4%. A flexible guideline would be one that would change, and the proposal is that it would change in accordance with inflation or some similar kinds of index. This actually increases complexity because every year you have to find out what the guideline is, but it can more closely mirror cost changes whereas a fixed guideline over a period of time might be either too high or too low.

In the current system we have a flexible guideline based on several formulae. The building operating cost index looks at 13 different cost categories and measures the change in a three-year period for each of those categories. They look at such things as the consumer price index for heating for the heating costs, the consumer price index for home owners' insurance for insurance costs and then very specifically at the Ontario municipal tax statements as to what the municipal tax increases have been on average in the past three years. That is the basis, and then there is a second formula called the residential complex cost index, RCCI, which then takes two thirds of the building operating cost, recognizing that in most cases a typical landlord does not spend every single penny on just operating costs, but it represents about two thirds of an individual landlord's costs. The basis, however, is 2%. The guideline could not go below 2%. It could be the greater of 2% or 2% plus two thirds of the building operating cost index. The 2% amount was made up of two factors, 1% for profit and 1% for ongoing capital repairs.

A third kind of option would be to design a new rent control index that would be simpler than the two formulae that we have now and it would still reflect inflation and costs that are experienced in operating a building.

A fourth approach would be simply to use the consumer price index or a variation of it. However, the consumer price index is a basket of goods that includes food, clothing and other things that are not applicable to operating a building. One could look at just the housing component of the consumer price index, but since rents feed into that, as well as home owners' costs, it becomes somewhat of a circular argument as to basing the next rent review guideline on the old rent review amount.

1430

Finally, one could have a special kind of guideline for different kinds of buildings or in different regions. For instance, you could have a different guideline for buildings that are more than 25 years old and require certain capital repairs, or you could have a different guideline for small buildings as opposed to large buildings because large buildings have elevators—mobile home parks do not have elevators and only have roads and hydro and snow removal kinds of costs—or you could break it down into regions, that in northern Ontario the guideline is something and in southern Ontario it is something else. But of course, as soon as you introduce that it increases the level of complexity by trying to specifically design those kinds of guidelines.

On page 13 in the large paper, we have set out a chart which compares the consumer price index, certain variations on that, and what the actual guidelines were since

1985, and you could see what some of the impacts would have been if there had been a different basis for the guideline.

The preferred approach that is set out in the consultation paper is that there be a new rent control index, that it be a flexible guideline, that it be inflation-based, that it also provide for three-year averaging and that there be an overall cap so that the guideline could never exceed a certain amount, no matter how high inflation rose. We do not set out what that cap would be, as that is going to be a matter for discussion, but the concept of having a cap is inherent in this preferred approach.

By having this kind of flexible, inflation-based guideline, it will smooth out the high peaks and low peaks of inflation, and what it also does is, in periods of very high inflation, the guideline would somewhat lag behind inflation, when tenants are least able to afford to pay the high inflation amount, and in periods of low inflation it somewhat catches up, and that is the time when they could afford to pay more because their other costs are less. You can see that kind of impact in the chart when you compare from year to year what an averaging kind of system does.

A related issue to what the guideline should be is the timing of the annual rent increases. Right now, each unit's rent can increase on the anniversary date once in a 12-month period. So in a particular building there could be 12 different anniversary periods for each month of the year, or indeed there could be even more if they are not actually on the first of the month. New tenants often do not know when the last rent increase was taken, and this has led to situations of illegal rents being charged.

So we looked at a number of options in this respect. The first was to continue our current method, that there would be variations from unit to unit within a building, but we also then looked at a province-wide rent date. One could choose 1 June or 1 September as the date that all rents in the province increase. Now this certainly provides the greatest level of certainty—excuse my grammar—and it could be publicly advertised so that all landlords and all tenants would know that on that particular day that is when rents can increase.

There are, of course, practical difficulties for people who would be moving at the same time in the year, as in Quebec, and it does have administrative implications for landlords, tenants and for the regulators, but to put it in some perspective, if you know that it is a certain date you can plan ahead, just like for your taxes, that something will happen on that particular day. And of course there would be transition issues moving from the old system to the new system so that there would not be a double rent increase for any particular person.

There are several variations on this kind of approach. One would be to make it regional, and that would spread out the administrative workload across the province. It could also be on the basis of building size: Buildings with seven units and less have a certain date and larger buildings have a different date.

The preferred approach for consultation would be to set a common rent date for each building or for each residential complex so that at least all of the units in that one building would increase at the same time. This information

would be available on the rent registry and could be made known to new tenants when they moved in. It provides greater certainty than the current system, although not as much certainty as the province-wide rent date.

I am now going to turn it over to Colleen Parrish for the next section.

Ms Parrish: Dana has essentially outlined to you what a rent control system might cover and given you some options in that area, and then she has outlined to you what basis you could have for the annual rent increase that was permitted. I am going to walk you through the next two sections of the discussion paper.

Essentially they deal in a very generic sense with the question as to whether there should be any increase above the annual increase that is permitted and the options for that annual increase that Dana has dealt with. We essentially deal with one section that deals with increases above the guideline and then we follow that by a discussion of capital, which, as everyone knows, is one of the major areas of interest to both landlords and tenants.

The discussion of increases above the guideline starts on page 17 of the discussion paper, and essentially the issue that we address is really whether there should be increases above the guideline, and if so for what factors, and we also discuss to what degree. That is, if we do allow certain factors to increase above the annual guideline, should they in turn be limited in any way or should they just be permitted to the extent that the cost is there?

In the course of addressing possible factors for increases above the guideline, we look at extraordinary operating cost increases, financial loss, economic loss and hardship relief, which are all concepts that exist within the RRRRA now, interest rate changes, we look at various other kinds of possible changes, we look at equalization and we look at the issue of chronically depressed rents or below-market rents, which I believe was one of the issues that was raised in discussion this morning. On the issue of extraordinary operating costs, under the current system there are 13 items which are permitted that could possibly increase rents.

The system for increasing rents above the guideline for extraordinary operating costs is probably best discussed by a little bit of an example. In the guideline, the famous BOCI that we have described to you, BOCI will tell you what the basis of the annual rent increase component is. For example, BOCI will say, "We assume that municipal taxes will go up 5%." If your municipal taxes as a landlord go up 7.5%, then you have passed the extraordinary operating cost test because your actual increase is more than 50% greater than the amount recognized in BOCI. So that is the test.

There is a second test that is also used to recognize extraordinary operating cost increases, and that is if your increase for any one of these costs is more than 1% of your rent revenue.

1440

So we looked essentially at the current system as to what the current items are that are allowed in the way of extraordinary operating increases. We looked at those 13

items, which are set out on the bottom on page 18 of your discussion paper, and also looked at the extraordinary operating cost concept.

One of the things we noted in our pursuit of trying to simplify the system a little bit was that the 1% revenue test is used by practically nobody. In our attempt to look at the current system, we decided that there are times when you want to have complexity because the price of complexity is worth it. That is, you have a complex system but you get something that is better, better for landlords or tenants or more fair. On the other hand, there are a fair number of things in the RRRA that are quite complicated but nobody seems to use them either. In other words, you have a system that is very complicated but nobody seems to much use it.

The only item that it is likely that anybody would ever get the 1% revenue test for would be municipal taxes. In our quest to find simpler ways of dealing with some of these issues, we have actually gone through and sort of tested where things are going. So the first issue we looked at was in terms of extraordinary operating cost increases.

We looked at a number of options in this area, but in the end the preferred option for extraordinary operating cost increases is to recognize municipal taxes, hydro, water and heating. In other words, if a landlord has an increase in taxes or utilities above the annual increase, we would suggest as a preferred approach that that be allowed to be passed through in the form of increased rent. We are suggesting that the 1% revenue rule, however, be deleted since it does not really seem to have any significant impact for the added complexity to the system.

The second issue that we looked at, on page 20 of your consultation paper, was the issue of consultants' and other fees or costs. This is the sort of miscellaneous category of things that have been passed through in the form of rent increases in the past. We looked at things such as the rent review consultants' fees, mortgage renewal fees, mortgage insurance fees, appraisal fees, excess vacancy loss and so on and so forth.

By and large, these have had a relatively small impact on rents. They have not been a significant impact on rent, but they probably are again an example of an increase in complexity in the system with relatively little positive impact one way or another.

One issue that I would identify particularly has been the issue of rent review consultants' fees. Landlords are able to pass through a part of the rent review consultants' fees, whereas of course tenants have to defend their case essentially on their own money. And although the amounts of money are not large, I guess the symbol is important in terms of fairness on both sides. Both sides have to finance their case one way or another.

So the preferred option for this reason, for reasons of simplicity and also for reasons of fairness, has not been to permit consultants' or other fees to be passed through in the form of increased rent for tenants and that is put forward as the option for discussion.

The next series of matters which are discussed starting on page 20 are financial loss, economic loss and hardship relief. These are somewhat technical items that are recognized in

the current RRRA. During the course of your travels around the province, you will have heard quite a few landlords coming forward with issues on financial loss. Essentially, economic loss is a cost which only relates to post-1976 buildings—is that right?—post-1975 buildings, buildings built after 1976 and onward. I always end up with a hole where nothing happens to the 1976 buildings at all. It is post-1975 buildings, starting in 1976. Those buildings, which of course were not captured by the original rent review legislation, were given a somewhat preferred position in the RRRA in terms of the amounts of money that they could pass through in the form of rent increases.

Financial loss is a sum of money that relates essentially to the purchase of the building, although it may also be generated by other costs that a landlord may be incurring. For example, it is possible for a landlord to be experiencing a loss simply because the costs of actually operating the building exceed the amount of revenue that the landlord receives.

The financial loss, economic loss and hardship relief, which is essentially an amount of money for pre-1976 buildings that have relatively low revenues or relatively low profits, is certainly one of the more contentious areas and one of the most complex areas in the bill. Large parts of the RRRA essentially deal with the issue of financial loss, economic loss and hardship relief. The issue of whether or not the capital investment of the landlord should be financed by moneys permitted in excess of the annual rent increase is indeed a very contentious issue between landlords and tenants. Tenants in essence take the position that moneys are available within the rents for these costs and that additional sums above the guideline should not be provided for the investment of the landlord. On the other hand, landlords feel that if such moneys are not permitted from rent increases above the guideline, it will be difficult for landlords to sell their properties and difficult for them to pay their ongoing costs.

On balance, the preferred option which is set out after a number of options are looked at, including whether or not we should recognize just financial loss or only certain kinds of financial loss such as financial loss for operating costs, is that there be no recognition of financial loss, economic loss or hardship relief.

I should note that next to capital costs, financial loss and economic loss are probably the largest single components of increases above the guideline; that is, next to capital they have the biggest financial impact.

Interest rate changes: Interest rate changes essentially are simply the amounts of money related to the fact that the mortgage rate or the loan rate may change. So you have a situation where you may have a mortgage on the property at 12%, it may go up to 14% and that difference between 12% and 14% is called the interest rate change. Again, I should note that interest rate changes are in fact recognized under Bill 4, with some limitations. On the other hand, there is no doubt that controlling interest rate changes is, again, an area of extreme complexity. The reason is that it does not take a great deal of ingenuity to think of ways that you can manipulate the combination of interest rate, capital amounts paid and all kinds of other transactions.

As a result, controlling interest rate changes to ensure that only a genuine interest rate change is passed through, and not something else, has in the past proved to be one of the more difficult areas of rent regulation. There is quite a bit of complexity in this area as well.

On balance, a number of options are considered on interest rate changes, such as limiting interest rate changes to ensure that there is no improper abuse and so on. Those options are outlined on page 22. On balance, the preferred option put forward on interest rate changes is not to recognize these in the form of rent increases.

450

The next issue, which is discussed on page 22, is equalization. In theory, what happens on equalization is that you have two tenants in a building and let's suppose they both have a two-bedroom apartment. They are essentially the same, there is nothing really different about them. They might be on different floors, that is it. Over time, for a number of reasons it may very well be that the rent for tenant A's unit will be \$600 and tenant B's rent will be \$700 and essentially they have the same unit.

What the equalization system allows to happen now is the tenant says: "Well, you know, why should I pay \$700 for this unit that somebody else is only paying \$600 for? I would like to have my rent equalized." The landlord can respond by saying: "Well, sure, but we can't just have equalization downwards because then I as the landlord will end up with less money. Let's have equalization upwards as well." The idea of equalization is tenant A, who is paying \$700, his rent comes down a little bit, and tenant B, who is paying \$600, his comes up, and over time, because it is sort of phased in to avoid a big change in any one year, they eventually pay \$650.

In theory, for the landlord this is completely revenue-neutral. The landlord should make no money on this, nor lose any money on this. The problem with that is that it assumes that there is perfect information, which is that in order to make equalization work you have to actually know what all the legal rents are. In some cases you do know what the legal rents are because you have good information and it has been filed or there has been a rent order. In other cases you do not know. The allegation that is often made is that equalization allows people to equalize up using as a base somewhere in the system an illegally taken rent which has occurred through a vacancy or perhaps because there was an unsophisticated tenant at one time. In a perfect world where you have perfect information, it should be revenue-neutral. Where there is uncertainty around information, that may not be happening.

The other thing about equalization is that it does create some tension and problems between tenants. It is very difficult to know what the pattern of equalization is. Certainly when you get complaints about equalization the most common kind of complaint you get is a new, young tenant moves in and complains that he is not paying the same as elderly Mrs Smith who has been in the building for a long time and so on. So the allegation made about equalization is that it tends to favour the newer tenants or perhaps the more sophisticated tenant who has the ability to figure out that there is this equalization stuff as opposed

to the long-term or less sophisticated tenant. You could equally say that you could imagine a scenario in which the person who is really being prejudiced was perhaps a new immigrant or a young single mom, or whatever, moving into the complex.

However, equalization has certainly created a lot of bad feeling. In theory, it is completely revenue-neutral if you have perfect information. In practice, it has had certain problems and it has also created some considerable tensions between tenants over this issue. So on balance, although I think that equalization probably has some merits, and we put forward the merits it may have, this is not identified as one of the preferred options.

The last issue that is discussed is the issue of chronically depressed rents, which is discussed on page 23. The concept of chronically depressed rent was one that was built into the RRRA and was never proclaimed. One of the main reasons it was never proclaimed is that it is extremely difficult to implement and it is very difficult to know in fact what is below the market. If of course you raise all of the below-market rents, at some level you raise what the market is.

I guess there was an attempt at one stage to try to deal with below-market rents. That concept, although it exists, was never actually implemented, and as a result of that experience, catch-up for below-market rents is not identified as a preferred option. It may very well be that during the course of consultation we will come up with, or people will come up with, a better way of dealing with the problem than had been identified in the past. This seemed to be the best shot and it did not seem to be that workable, but perhaps during the course of consultation a better idea will come forward as to how this could be made more workable.

In terms of increases above the guideline, I would just like to summarize a preferred approach that is identified for consultation. It is also outlined, I should say, on page 24 of your discussion paper. Essentially, the number of costs above the guideline that are identified as preferred for the purposes of discussion are somewhat limited. They are limited to municipal taxes, hydro, water and heating. One of the reasons that this is identified is that, as you may recall in Dana's earlier discussion, there was some discussion about whether or not it would be appropriate to have a regional rent guideline. There are quite a few people who favour that because certainly the conditions in northern Ontario are quite different in terms of heating and so on and the conditions in southern Ontario are quite different in terms of taxes, for instance, and in terms of things like water costs.

However, having a regional guideline really creates a lot of complexity for relatively little gain and it was thought that by having an exception that just dealt with municipal taxes, water, hydro and heating, which tend to be more regionally sensitive than other factors, this would be a way of dealing with the regional issue. So if it is true that heating costs in northern Ontario go up more than the percentage recognized in the guideline for the whole province, you can do with that. It is a way of dealing with regional sensitivity without having the complexity of a

whole regional system—the guideline for northern, southern, eastern, etc.

The other concept which is discussed in this area is whether, if you permit any increases above the guideline for whatever factor, any of these factors—interest rate changes, equalization, financial loss, or whatever—there should be an overall cap. There are two ways of looking at the overall cap.

One is that you would just pick an overall cap number, and what that should be, again, would be a source of discussion during the consultation period.

Another way, which would probably create even more certainty, would be to say that the cap should be the same as any overall cap in the annual increase, so that in essence what you would have is you would have an annual increase and then you would have an overall control, which would be your ultimate cap, and then you would have flexibility for whatever in between. The amount that you would have would depend, in part, on how high your annual increase was. So in periods of high inflation you might not have that much room, in periods of low inflation you have a little bit more room, but you create some overall certainty. You allow flexibility above the guideline but you create an overall control and an overall cap.

So there are two kinds of caps you could have, one which is the same for everything and one which perhaps differs. There are a number of reasons to favour one approach as opposed to another. One criterion I think we would suggest would be simplicity.

The next area to discuss is capital expenditures. As you know, this is not an area where there are preferred options, so what I would like to do is to take you through the paper, starting on pages 25 and 26, which are essentially the overview section. We have in the appendix as well some statistical information, and I have also given you some statistical information in the past.

As you know, and as the minister mentioned this morning, Ontario's rental stock is aging. The RRRA system did allow the costs of repairs, renovations, replacements, new equipment and facilities to be passed through. There were no restrictions on the amount of capital expenditures that could be passed through in any one year.

1500

There was a tendency for capital expenditures to be sort of saved up and sort of bunched up and moved through the system together, and one of the reasons for that was that there was an economic advantage to doing that. When you came to rent review, that 1% that was in the base of your rent—remember that Dana described that there was this system that had 2% plus two thirds of BOCI, which was this building index. You had 1% in your base for capital improvements. If you come to rent control, that 1% is counted as part of your overall capital, so if you come to rent review year after year after year, you keep losing your 1%. There is a real incentive for people to save them up and come together at once, because you only lose that 1% once, so there actually were some reasons for why that was occurring in the past.

Over time, as you all know from the press and from your own experience in your constituency, some capital

work was identified by tenants as unnecessary or unwanted. There was no distinction in the RRRA as to the kind. In other words, preventing the garage from falling down was treated essentially the same as putting in micro waves. In that sense the system did not make those kind of distinctions.

There is no doubt that there is a need for capital expenditure work to maintain adequate building standards in Ontario and extend the life of Ontario's existing rental stock. The great difficulty will be to find a method which is acceptable and which encourages the necessary work to be done in a timely and efficient manner, provides adequate funds to get the work done and provides enough flexibility that work of an aesthetic or cosmetic nature can be done without passing through large increases, because the reality of this is that some people want things done to their buildings which may not be necessary but may be something that individuals would like to have.

The discussion on capital expenditure addresses several types of issues. The first issue is funding the capital expenditure work; that is, what kind of system you could have for capital expenditures. The second is what limitations you might have on capital expenditure. So you say, "Okay, here is a possible system," and then the questions is: "Okay, you've picked a system. Do you want to have some limitations on what you would allow to occur within that system?" The last issue which is addressed is the issue of transition; that is, what should we do about capital repairs that may have been done prior to the implementation of any new rent control system?

The first issue is essentially what kind of capital expenditure system you could have. There are a number of options put out and there is also the possibility of combining certain options if there is a desire to; for example, have one option for a period of time and another option later on, or some other combination of options.

The first system we discuss is a cost-pass-through into rents, and that is a system which is somewhat similar to the system we have now but could be implemented with appropriate limitations to deal with the problems that have been identified to date. Essentially, the way a cost-pass-through system works is that landlords come forward with costs associated with capital repairs and those costs could be passed through to tenants in the form of increased rents. The cost-pass-through system does provide sufficient funding to ensure that individual buildings can provide enough funding. Obviously it depends on how much is allowed to be passed through. There is a way, therefore, of bringing the landlord's application to some sort of objective source that will then validate whether or not it is an appropriate case. You can sort of marry the cost pass-through to a number of restrictions, such as capping or tenant approval or desire to have only necessary work dealt with and so on.

However, cost-pass-through systems can still result in large rent increases that tenants find unacceptable. Without certain other kinds of limitations, cost-pass-through systems may not ensure that landlords are doing the kind of work that is actually needed to maintain the housing stock of Ontario. And there is no doubt that once you institute any

ort of system that allows any increase above the guideline, you have to have an administrative system to deal with it. You have to have someone who will make a decision about capital, so you have to have an administration system to deal with that.

Another approach could be an approach such as the approach taken in the province of Quebec, and at a conceptual level what Quebec does is that it treats any expenditure on a building as if it were an investment. In other words, it says: "I'm a landlord. I can take my \$10,000 and I can put it in the trust company and receive a return on that investment of 10%, or whatever I am getting, or I can take it and I can make a capital repair on my building, replacing the roof." Essentially the Quebec system says, "Let us treat that as if it were a capital investment on which this individual will receive a rate of return." What Quebec does is it sets a factor which it calls a rate of return. Landlords get this and that is what is passed through in the form of rent increase.

Another approach that could be taken to dealing with providing sufficient or providing some funds for capital repairs to buildings is the increased guideline amount. This system differs from the cost-pass-through system in that landlords would not have to apply for any more money; they would simply get it. All landlords would get this amount of money, not just landlords who were actually doing repairs, so in a way what would have to happen is that landlords would have to do their own self-policing. They would be getting more money in their guideline every year and they would have to make their own expenditures and plan for those expenditures over time. This is obviously a fairly simple system in the sense that you could simply add to the annual guideline, whatever it was, a certain amount of money for capital. That could be varied. For example, you could allow more for older buildings or more for—you know, we had discussion before about buildings with elevators and so on and so forth. You could have some variations of that type.

The problem with that is that you would probably have to have significantly more enforcement because landlords would receive the money whether or not they in fact did anything with it. The other thing that may be considered problematic is that everybody would pay this. Currently 17% of all buildings come to rent review, and under a system of putting an increased amount in the guideline 100% of all the tenants would get this increase instead of just those people who were having increases related to work actually done in their building. Although it is a much simpler system, it has some disadvantages from that viewpoint. However, it is simpler to administer and you certainly do not need a complicated administrative structure to have that occur, at least not on the approval side; it may need more strength on the maintenance side.

The next two options we talk about are reserve funds, and there are two kinds of potential reserve funds, building-specific and province-wide. A reserve fund is a pool of money which is set aside and accumulated for the purposes of making capital repairs. For example, those of you who are familiar with the Condominium Act will know that condominiums are required to put aside a sinking fund

and that thereafter members of the condominium corporation have to contribute a certain amount of their ongoing operating costs to their reserve fund. The idea is that this fund then pays for major repairs in their building.

The building-specific reserve funds could be funded through regular contributions from rent, there could be mechanisms for tenant participation and they could be used to repair the buildings. The problem with building-specific repair funds, of course, is that, unlike with condominiums, we are not starting with a new building, we are starting with many buildings which are 20, 30 and 40 years old. It may take some time for there to be enough money in that reserve fund for that building to pay for the repairs of that building; that is, it may take quite a while for the pool to be accumulated to help that particular building out.

Province-wide reserve funds would be a pool where all of the money that would go to a reserve fund would be put into a province-wide pool and then allocated to buildings as their need occurs. So over time every building would eventually come in, but it would be based on times. The question, of course, on a province-wide reserve fund would really be the question of cross-subsidy and fairness; that is, would landlords who have already maintained their buildings very well be putting money into the reserve fund which they would not get back; and their tenants, who are paying the rents, would they be putting money in and not getting the money back? You may have a system where certain tenants are subsidizing others through their rents, or certain landlords through their rents.

1510

In addition, you may have to have provincial funds because the amount of money would be fairly significant in the sense that if we had a 1% levy for the reserve fund province-wide, that would be \$80 million and that would not cover even the current level of repairs that have been passed through in the rent control system. There is always a concern about the expenditure of public moneys, as to whether that is an appropriate course.

Mr Cordiano: What is the current level of expenditure?

Ms Parrish: The highest amount of expenditure passed through in any one year was \$122 million, which I believe was last year. That is the highest amount of money that has been passed through in any given year, \$122 million.

The last option we talk about in a generic sense is government programs. There is a low-rise rehabilitation program now in Ontario that members may be familiar with. Approximately 19,000 units have been committed under that program. There is a possibility of combining government programs with other cost-pass-through systems, with various reserve funds and so on. The issue is really the demands on government funds for many worthwhile factors.

Having looked at what are the generic options as to how you could do capital funding, there is also a series of issues, starting on page 32, that really relates to what kind of limitations. If you decided that you were going to permit rent increases to occur above the statutory guideline for capital repairs, and you had chosen one of these previous options as your preferred mechanism for getting the

money in the system out of the system for capital repairs, then the issue is, do you allow anything or do you want to have some sort of limitation. There are a number of limitations that are discussed, and again, some of these could be combined.

The first issue is "necessary"; that is, whether or not there should be some distinction made between necessary capital improvements and other items that are of a luxury nature or are not necessary. It is very difficult to know what should be necessary. You could take a fairly basic approach, which is that if you have got a work order against your place or if you do not meet the basic minimum provincial standard, then that is necessary and nothing else is necessary. The problem with that is it does not encourage a very preventive approach, and in fact, because municipal standards vary quite a bit over the province, you may have a situation that this is necessary in Toronto but it is not necessary in Kapuskasing and so on. Therefore, you may have different standards of protection for tenants across the province.

Another thing that you could do about necessary would be to say that if something is being upgraded as opposed to worn out and replaced, that could be considered to be unnecessary or luxury or discretionary. I hate to use the word "luxury" in the sense that I think probably "discretionary" is a better way of putting it; it may or may not be luxury at some standard, but it certainly is discretionary in the sense that the building will not fall down without it.

There really are a lot of issues here, and I think we are very much looking forward to the input we get from the public as to what it considers to be necessary, whether a minimum standard is too low or whether there should be some other kind of standard related to maintaining the structural integrity and health of the building.

Even with a "necessary" criterion, it is still possible to have fairly significant rent increases occurring in a particular building, so the distinction between necessary and other kinds of capital does not necessarily—excuse the pun—does not ensure that you will not have large rent increases. You may still have large rent increases. Again, we have one of these problems where we have competing policy principles here related to capital. We want to have things that are reasonably affordable, but we also have to look at what is actually necessary.

Another approach that could be taken in terms of limitation is tenant approval. There are a number of approaches that could be taken to tenant approval. Some of those issues around tenant approval may be dependent on where the actual repair is occurring. In terms of tenant approval, one of the things we look at is the importance of having some information to tenants about expenditures. We could have a system in which tenants—some proportion; either a majority of tenants, two thirds, 75% or all tenants—could approve every single repair. That could be one approach.

Another approach would be to say that tenants should approve anything that is discretionary; that is, if it is necessary it should go through one system, but if it is truly discretionary—that is, it is a new recreation centre or whatever—it should be subject to tenant approval.

Another potential criterion for tenant approval could be the issue of where it is located; that is, if the repair is en suite, in the tenant's actual unit, there could be a requirement of a tenant approval which might not be appropriate if the approval is the elevator. So you might distinguish as to where the repair was taking place, taking the view that your unit is more likely to be seen as your home than the common area.

There are a number of possibilities in the area of tenant participation and approval, a sort of spectrum from complete involvement of the tenant through depending on the site and the nature of the repair.

Another limitation that could be taken in combination with some of the others as well is the issue of overall capping. The way to explain overall capping is probably to refer you to a chart on page 35. You may recall that before I talked a little bit about the possibility of doing two kinds of caps. One of the caps that you could look at would be simply a separate cap for different kinds of expenditures. You could say we will have an X% cap for extraordinary operating costs, an X% cap for capital and an X% cap for the overall inflationary statutory guideline; or you could pick just one cap and just always have that cap. It is a simpler message, although it does not reflect the complexity of the different kinds of costs, but you could have an overall cap. You could have this rent control guideline, which would vary with inflation, compressed, and then you could have some flexibility in the system to this overall rent control cap; or you could have a separate cap for each kind of expenditure, so you could have a series of caps.

Another approach could be to simply separate and remove any allowance for capital expenditures. One of the points that was made to you in the course of your hearings on Bill 4 was that the capital expenditure increase goes into the base rent and then over the years it is compounded. The landlord receives a certain amount of rent increase to replace the roof, that goes into the base and then, as the annual increase comes up, 5%, it is compounded at 5%, and then the year after that it is another and it is another and it is another. So people are saying, "Well, it's one thing for them to get this increase; it's another thing for them to get the compounding and to get it for ever." Because 10 years later perhaps this whole roof is paid off and the tenants are still paying not only the base amount but the percentage increase. So another limitation could very well be to take that out when it has been amortized over the useful life of the object to prevent the compounding effect.

The last issue in the area of capital—and I have not been moving along quite as quickly as I had hoped, so I will try to finish this off—is the issue of transition, which is that if during the course of consultation an acceptable approach on capital expenditures is identified, there could be consideration given as to whether the identified solution should apply to any capital work which was commenced or completed prior to the implementation of new rent control legislation.

In terms of transition, we look at a number of approaches to capital work and we look at a number of potential dates that any solution on capital could apply to any

work that was done of a capital nature, providing it had not been compensated in the form of previous rent increases, or it could apply only to work that was done after the passage of the new rent control act or after the introduction of the new rent control act. There are a number of what I guess I would call starting periods that you could choose on a spectrum of starting periods as to whether or not the new capital expenditure rules should apply to any capital repairs completed or commenced prior to any new law being in place. That is essentially what the transition options are about.

Those two areas are obviously closely connected with the issue of maintenance, which is a critical tenant issue, and I am going to turn it back to my colleague Dana Richardson, who is going to walk you through the next two sections, on maintenance and rent reduction.

1520

Mr Turnbull: Can I have a couple of questions, Mr Chairman?

The Acting Chair (Mr Abel): I think we agreed that we would hold the questions until the end.

Mr Turnbull: No, what we said was section by section. Was that not what you suggested, Dianne?

Ms Poole: Actually, I said that was my preferred option, speaking of preferred options. I did not think they would get through the documents if we did not wait until the end. I think we are only halfway through them.

Mr Turnbull: I think we have a serious problem if you allow too much to go before us and we cannot get questions in. I think it is very relevant to what we—

The Acting Chair: Is everybody in agreement that these questions—okay, go ahead, Mr Turnbull.

Ms Poole: So are you going to allow questions on everything that has gone on so far then?

Mr Turnbull: I understood after each section.

The Acting Chair: Okay, let's get a handle on this.

Mr Mahoney: Good idea.

The Acting Chair: We did have an agreement, I thought, that we would put off all the questions until the end. Now, is it the wish of the committee to stick to that or are we going to allow them section by section?

Ms M. Ward: I think it might be a good idea to have a break at this point, to have a question period. It may be less for people to assimilate. I do not really care.

Ms Poole: I have certainly got lots of questions.

Mr Cordiano: It might confuse the experts if we ask them questions.

Mr Mahoney: No offence to the presenters, they are doing a marvellous job, but if they are going to go until 5 o'clock presenting maybe we should go get a pillow and a blanket. I do not mean that as criticism; it is just that it is very difficult to sit and it might be more constructive for us to be participating as we go along.

Ms Harrington: I would agree.

Ms Poole: The trouble is Mahoney's attention span is only 10 minutes.

Mr Mahoney: That is right; you lost me about an hour ago.

NMs Parrish: It has always been my ambition to get a job as a sleeping pill, actually.

The Acting Chair: In hopes of keeping Mr Mahoney awake, and the others, is that the wish of the committee? We will allow some questions now, at the end of the section? Okay.

Mr Turnbull: A few questions: First of all, with respect to the discussions, the disallowing of financial loss and disallowing of interest rate changes, I am quite perplexed about that.

Maybe I should back up. We have heard a lot of testimony from landlords regarding the poor return on apartment buildings, and in fact in some cases the losses, and the knee-jerk reaction that we have heard from my colleagues on the opposite side there is, "Yes, but there's capital appreciation."

Could you explain to me how you could have capital appreciation if you do not allow financial losses? It seems to me that if you have got a loss on a building and you do not allow the phase-in of the financial loss clause, then what you continue to have is a loss on that building ad infinitum and there can therefore be no capital appreciation. I have got a series of questions, but that is the first question, as to how you arrived at the thought that the preferred route would be not to allow it.

Ms Parrish: It is my understanding that the basis of the preferred option was that the existence of financial loss in essence ensures that there will be a cycle of selling rental properties for more than the rental revenue and that as long as financial loss is permitted there will continue to be a tendency to purchase the buildings for more than the revenue will support and then pass that on in the form of increased rents.

It is really a question as to what behaviour you want to encourage in future. As long as financial loss is permitted, my understanding of the objection to it is that there will continue to be a system in which that becomes factored into the price of rental properties at which they are sold and it is true that the individuals who sell may make a profit and the next individuals who purchase will pay for that profit and then in turn will pass that on to the tenants. My understanding is that that is not an approach that the government wishes to perpetuate and that is my understanding of the policy rationale.

Mr Turnbull: Okay, next question. On interest rate changes you have suggested that there could be some sort of manipulation of interest rates so that some extra profit could be made. Is it not reasonable to put in just a simple mechanism whereby you police that it is at market rates, rather than just disallowing it holus-bolus?

Ms Parrish: There are a lot of mechanisms that you can put in place to try to deal with various abuses and there are quite a few of them in place or proposed in Bill 4. Some that are already in the RRRA are proposed in Bill 4.

I guess this is a real sort of test around simplicity. You can deal with abuses in the system, but they involve significant complexity, significant policing.

As well, once you get into interest rate issues, you also get into the sort of quid pro quo, which is, are you also going to have a system in which, if interest rates decline, you are going to go around and take them out of the rent base so that there is sort of equal treatment; that is, landlords, when their mortgages go up they get that and when it goes down that gets taken out.

I think there are ways of dealing with these potential abuses, but they certainly add significant complexity. When you have to factor in the sort of quid pro quo and the administrative burden associated with it, the issue really is, is it appropriate to do so?

Mr Turnbull: Have you got any data in the ministry to indicate that there was any abuse of interest rate adjustments?

Ms Parrish: It is very difficult to get data on whether or not there has been manipulation. Certainly the use of vendor takeback mortgages is quite widespread in this area, but there may be other reasons for that.

Mr Turnbull: It seems to me that vendor takeback mortgages are usually less than market rates, not more than.

Ms Parrish: Usually they are less, but there is also an issue as to whether there has been a deferral of the profit into capital, which is taxed in a more favourable way, as opposed to into interest, which is taxed in a less favourable way. So there is often the issue as to whether the whole transaction has been structured in a way which is beneficial for the principals to the transaction but may increase the costs to the tenants, which is really the whole issue there. There is no doubt that there are mechanisms for dealing with this, but they involve significant complexity and policing.

As to whether we have any data on this issue, that is something I will have to go back and check. I am not immediately familiar with this, although there may be some in the Royal LePage study.

Mr Turnbull: I am particularly curious about—I understand that the problem you face is, on the one hand you are the experts who prepare these documents, but the options are chosen by your political masters. I understand that.

Of the areas that are recommended in this document where some extra costs can be passed through to the tenant, one of the significant areas is real estate taxes, which is one of the areas that not only is the government best able to control but in fact fought the last election on the basis that it was going to take a significant portion of the cost of education out of property taxes. Here we have got the ability to pass through property taxes, and yet the other areas which the government cannot control, it is proposing that the landlord just sit with those. Can you enlighten me as to what the philosophy on that was?

1530

Ms Beaumont: If I could perhaps comment on that, the minister indicated this morning in response to a question that what we were dealing with at this time was the proposed basis for rent control legislation and not the government's response to a whole series of issues. He was talking about combating poverty at the time. Similarly, we

are here dealing with the basis for rent regulation and not the government's response to a restructuring of the tax system. There are other mechanisms in place that are examining the tax system, such as the Fair Tax Commission.

Mr Turnbull: I do not think that exactly answers my question, because I am saying you are specifically allowing, you have segmented out various items that you can ask for increases under this proposed legislation, under the recommendations, and there are other areas where you say no, you do not recommend this. But one of the items that you do recommend to pass through is the area that the government can most directly affect, and the areas that cannot affect, it says, "No, let's let the landlord eat it. There is an inconsistency in that, to me, and I cannot understand what the thinking could be.

Ms Beaumont: The provincial government can directly affect real property taxes really only through a restructuring of its municipal grant system or a restructuring of the property tax system, and neither of those are being addressed in this paper. The current system allows municipalities to set individual tax rates, and those differ and that is why they are addressed in the paper.

Mr Turnbull: Okay, I will address that to the minister then.

The Acting Chair: Can I interrupt here for just a minute, please?

Mr Turnbull: Yes.

The Acting Chair: We have a 70-page document with two appendices and we are only on page 37. Ms Poole and Mr Mahoney have some questions too.

Mr Turnbull: Let me just ask one more quick question then.

The Acting Chair: I have allowed six minutes so far. I want to be fair. If I gave them six, I think maybe we had better get back to the paper.

Mr Turnbull: Can I ask just one quick question? In preparing this document have you consulted with the Ministry of Energy about any proposals it may have for mandating that landlords would have to put in energy conservation equipment or windows or so forth?

Ms Beaumont: The ministry has had a lot of discussion with the Ministry of Energy, both because of its interest in this document and because of the ministry's own role as a landlord. So there is a lot of discussion going on between the two ministries in those areas.

Ms Poole: I will try to refer to either the green paper or your document as we go along. The first question I have is on page 1 of the paper you handed out today, "Ontario's Directions in Housing Policy." You have outlined three points for the overall housing strategy and you have outlined four points as fundamental principles. Are any of those strategies or those fundamental principles changes from the previous government's strategies or principles or is this just ongoing?

Ms Beaumont: I think if we look first of all at the principles, this is, to my knowledge, the first time a government has publicly pronounced on some principles underlying its policy development in the housing area.

As we look at the specific ones, the whole question of housing, the principle of housing as a right, is something that this government has talked about a considerable amount. I am not aware of discussions along that vein from previous governments.

The contribution housing can make to quality of life and the social, in essence that is talking about the social and community value of housing, perhaps not in these terms, but the principle has certainly been discussed previously.

The contribution of housing to the prosperity and stability of Ontario's economy again started to be talked about more commonly, I think, over the last couple of years, with concerns about the impact of rising prices, etc., prices of housing, value of housing, cost of housing.

The shared responsibility for the provision of housing is a principle that has been carried forward into practice, but I am not aware of it being articulated as a principle.

Ms Poole: Would that latter one be to replace the fact that there should be a partnership between the private sector and government?

Ms Beaumont: I think the wording of "shared responsibility" implies both partnerships—that is, joint responsibility—and that certain things are individual responsibilities of different levels of government and sectors.

You have asked as well, Ms Poole, on the components of housing policy and the ones that are being established here as priorities at this point in time.

There have been past government policies in many of these areas. I think what the focus is on now though is the nature of those policies, the way in which they are being addressed.

For example, on government land, there is an existing policy brought in by the last government, Housing First on government land. What is being re-examined at this point is how government land should be used for housing. Presumably the outcome of that deliberation could be a confirmation of an existing policy, could be a changed policy.

Ms Poole: Yes.

Ms Beaumont: As you deal with housing policy there are only certain things you start from, which is the land base, the structure, the cost, etc. It is just new ways of looking at those.

Ms Poole: I am going to go directly to the green paper because the time is short and I think the Chair is not going to allow too much latitude because we do not have much time.

Page 8: Here you are talking about enhancing the compatibility of rent control with the Landlord and Tenant Act while maintaining the separation of the two statutes. You have made a statement here which somewhat puzzles me, because you have said, "A number of approaches were considered for consultation but did not meet this policy objective." Then you list a number of areas which I assume were excluded from being examined in the scope of whether you wanted to change them as far as—let me try that sentence again. There are a number of items that are being mentioned that are currently not being looked at in this green paper as far as removing them from the scope of rent control is concerned: for instance, agreements by

landlord and tenant; whether the rent was high, for example \$2,000 a month; high vacancy rates; and whether the landlord made available a certain number of rent-geared-to-income units.

I am taking that there is an unwillingness to look at these options because it violates your principle that the Landlord and Tenant Act and the rent control policies have to be compatible? Am I taking the right thing out of this, that you do not want to entertain discussion about whether we should be saying, if a landlord and tenant have an agreement per the Quebec model, then it is not going to be removed from the scope of rent control?

Ms Beaumont: No, those decisions were not based purely on compatibility with the Landlord and Tenant Act. Those areas would not be compatible with the Landlord and Tenant Act, but there were other factors as well.

Ms Poole: That is what I wondered if you could discuss, because one of our presentations, I believe the Stormont Dundas Glengarry Legal Clinic, highly touted the Quebec model where they do allow agreements by landlord and tenant, and I got the impression from this that you have automatically eliminated that for reasons that I am at a loss to understand. Perhaps you could elaborate on why these various things are not even going to be considered as to whether they should be removed from the scope of rent control.

Ms Parrish: I would start out by saying that anything that is identified as an option is open for discussion. If it is there, then obviously it is a real option, and we try to put forward options that we think are real. The government has identified preferred options in order to be up front as to its viewpoint, but if it is there, then it is a real option.

The argument made about a number of these things is that not only do they create the confusion around the Landlord and Tenant Act that people find the system difficult, but these all have advantages and disadvantages.

One of the comments that is often made about Quebec is that it is easier to have a system of agreements between landlords and tenants because of historically higher vacancy rates, so that tenants have more real bargaining power, and a much higher proportion of people in the rental market compared to Ontario, which still tends to be predominantly a province of home owners whereas Quebec, particularly in some of the big cities like Montreal, has a very high proportion of renters, and therefore it has a different kind of rental system. So those are the arguments that are made, and there are arguments about all of the issues.

1540

We did have a system in Ontario once that cut off at a high rental level and what happened I guess over time was that everybody tried to push over the top.

Again, high vacancy rates, the problem is that areas move in and out of vacancy and therefore it is in one day and out the next and so on, so it is not administratively that feasible.

But I think that the issue of new buildings is a very real issue that people want to hear about. Just because it is not the preferred option does not mean that it is not an option.

Ms Poole: So these have not been rejected as options, they are still open for discussion?

Ms Parrish: No.

Ms Poole: That was something I was somewhat confused about, because it sounded like the decision had already been made or you had already looked at it and did not find it feasible.

Ms Parrish: We just have not explained ourselves that well. That was not the intent.

Ms Beaumont: I think it is important that you go back to—I think the minister was trying to reinforce the point in his comments this morning that the preferred approaches were put forward as an indication of the government's thinking at this point in time prior to the consultation, but that all the options indicated in here, and other options that no doubt will come forward in the consultation, are open for discussion in arriving at the conclusions as to what the act should contain and the approach that should be taken. It was felt that it is easier to have something that people can react to.

The Acting Chair: Mr Mahoney.

Mr Mahoney: Mr Chairman, I have questions, but I do not think that the critic for my party is finished and I would like her to have an opportunity to continue.

The Acting Chair: I wanted to be fair. I allowed Mr Tilson a certain amount of time and I did go beyond that for Ms Poole. And like I said, we do have quite a few pages to go through yet.

Mr Mahoney: But I understood, if I could just take a moment of your time, Mr Chair, that we were going through this paper in a consultative way to gain as much insight into the reasons for some of the preferred options and that there is going to be additional time beyond today. Even though we go back to Bill 4 tomorrow, we will be coming back to this. I would assume that these ladies would be available to come back to finish it another day and I do not know why we would limit any one of us in the opposition benches to five or six minutes of questions at any given time. Considering the significance of this document, which has been much touted for some time now as being the new saviour to housing problems in this province, I would like us to spend more time on that and I would like your ruling.

The Acting Chair: I think we will have to turn to the committee here. We kind of went into this without any real structure. It was agreed initially that we would go through the document and then ask questions. Midstream there was a change of heart. I tried to deal with that by way of consensus of the committee. We do have to have some kind of a limit on there or we are not going to get through the document.

Mr Mahoney: Well, Mr Chairman, I do not know. I have sat through some frustrating hearings on Bill 4 when we have been muzzled and had restrictions on the amount of time opposition members, or government members, if any of them had any concerns from time to time, had to put their concerns forward, and I frankly do not accept that we should be handcuffed in this way.

If you are looking to the committee, I would be prepared to move that questions be allowed to continue on the sections as we go through them until those questions have been satisfied.

The Acting Chair: You do realize that it may be a problem trying to get through this document. We have a very rigid schedule.

Mr Mahoney: Perhaps the rigidity of that schedule should be reviewed. If you are telling me that we are going to go through this very important document on the kind of time constraints that you are laying forward, I have a lot of concerns about that.

The Acting Chair: Any more discussion on the motion? That was a formal motion?

Mr Mahoney: Sure.

Mr Owens: Mr Chair, I would like to request time to find my colleagues as per—

The Acting Chair: On the motion, is there any more discussion? Okay. We can allow up to 20 minutes.

Ms Poole: Mr Chair, I just might point out if we are going to adjourn for 20 minutes, I think we just effectively guaranteed we cannot finish this document.

The Acting Chair: That is right.

Ms Poole: I wondered if we could try for some consensus on this.

Mr Mahoney: Allow more time.

Ms Poole: How long do you estimate it would take for the remaining—

The Acting Chair: I am sorry, we have a motion on the floor. You are discussing the motion?

Ms Poole: Yes.

The Acting Chair: Okay.

Ms Poole: I just wondered if I could have an estimate from the ministry people as to the amount of time they would need for the presentation portion of the balance of the document.

Ms Beaumont: About an hour.

Ms Poole: About an hour?

Ms Beaumont: Close to an hour, yes.

Ms Poole: My goodness. I talked to the ministry this morning and was told an hour and 20 minutes for the entire document presentation.

Mr Mahoney: Maybe you could help me out by telling me if, assuming we arrive at the end of the ministry presentation, you are then saying that each caucus is going to be allowed X minutes to ask questions. Is that the game plan?

The Acting Chair: I had not been informed. I have no direction from this committee at all as to what type of format we are going to follow. As I said, there has been no structure at all.

Mr Mahoney: Well, how did we arrive at the structure where we are operating under now?

The Acting Chair: I was not in the chair when this happened. It began and here I am.

Ms M. Ward: There was agreement that we go through the—

The Acting Chair: Initially, the agreement was that we go through the document and then ask questions.

Ms Poole: I think when I made that suggestion I had asked the ministry this morning how long it would take for the entire presentation and I was told, I believe, one hour 20 minutes. So I was estimating that half the time this afternoon would be for the document and half for questioning.

I would suggest that it may be of priority to get the ministry through the presentation today but that I think we should also allow for a continuation of the questions that we have at another time, because I just do not think it fair. I mean, I have three pages of questions which might certainly help with our witnesses next week. As long as we could make an arrangement at 5 o'clock, or whenever we adjourn today, that if we have not had sufficient questioning time we could go back to it either tomorrow morning at 9 or probably next week prior to beginning the presentations, then I would not have a problem with that.

Ms M. Ward: On a point of information, is not our adjournment time 6 o'clock?

The Acting Chair: It is 5 o'clock today.

Ms M. Ward: Oh, I understood it was 6.

Mr Turnbull: I would just like to say it seems ludicrous to me, given the fact that we are here, we have the witnesses here, Mrs Poole has a whole set of extra questions, you are prepared to allow a recess of 20 minutes to get extra NDP members to vote us down but you will not permit the extra time for her to ask the questions. I totally fail to understand the rationale and all I can say is "open government" is absolutely just a bogus term when that can happen.

The Acting Chair: Sir, I did not make the rules. Twenty minutes is the allowable time.

Mr Mahoney: You have got your group here now so—

Mr Owens: I do not think that is really the issue, if one side or the other wants to use the rules as they see fit, whether it is bogus or not in your opinion is not the issue. The rules are there and they are meant to be utilized.

Mr Turnbull: But she would have spent less than 20 minutes asking the questions.

Mr Owens: I think we had a suggestion for consensus, and unless I hear any objections from this side it sounds reasonable to me, that I think the operative point is to get through the presentation. If we have the need for more time for questions, then we should look at scheduling that.

1550

Mr Mahoney: I move the question be put on my motion.

The Acting Chair: Would the clerk read the question, please?

Clerk of the Committee: Mr Mahoney moved that more time be allowed for questions from members of the committee on the discussion paper briefing.

Mr Owens: At what point?

Mr Mahoney: It is pretty clear to me.

Ms Poole: Are committee members willing to sit till 6 tonight to facilitate this, or until the questions are finished?

The Acting Chair: The question has been put. Just for a point of clarification: "ask questions on the discussion paper." Is that now or when?

Mr Mahoney: That was now, to continue with the questioning.

The Acting Chair: Okay.

Those in favour of the motion?

Opposed?

Motion negatived.

Mr Mahoney: Do they still wish 20 minutes to go get their members? I just thought they might.

The Acting Chair: You were down for five minutes, and then we will go back. That is what we had originally agreed to, okay?

Mr Mahoney: Thank you.

On the issue of the financial loss area—and I am not really sure who I am directing this to, so I will just sort of throw it out and you can quarterback it, I guess, from there—you stated that you will not allow any adjustments in the rent for interest rate changes. What I would like is some clarification. Are we talking about interest rate changes that result as a result of—a lot of duplication of terms in this, is there not?—of a sale, or as a result of a maturity of a mortgage, or the expiry of the term of the mortgage? Do you follow what I am getting at? If it is time to renew a mortgage and interest rates happen to be at 18%, are you saying they cannot make any adjustment in the rent to cover that?

Ms Parrish: Yes, you are correct, sir. That is the impact of that. Interest rate change is different from financial loss. You have identified correctly the difference.

Mr Mahoney: What I am having some trouble understanding is if I am a home owner and my mortgage comes up—and this of course happened to many home owners not too many years ago when we were up in the 20% range in interest rates; people lost their homes because they had to renew mortgages from 10% up to 20% and could not afford the increase in payments. What you are effectively doing is shielding tenants for all time from the marketplace, something that no one other than Ottawa at this stage has any control over, those interest rates. Why would they be treated differently?

I can see it on passing through a flip or something. You used the example of a vendor-take-back. Whether a VTB is below or above the going market rate, I do not know that that matters that much. I can understand not allowing for pass-through, thereby in effect controlling the flipping of buildings because it would not be economically feasible to do it. I have some difficulty in understanding why the property owner would be required to just simply eat the increase in interest rates that is certainly no fault of that person, nor is it of the tenant. Yet if you carry the philosophy that I certainly support, and that is that an apartment unit is a person's home—just because he rents it does not mean it is not his home; it is his home; and someone else who owns a home, that is his home—why would they not

be treated in the same way? Are we in fact now going to set up a situation where it is more advantageous to rent than it is to own in this province?

Ms Parrish: The issue of interest rate pass-through, as I understand it, is that you prefer the approach that was taken in Bill 4, which permitted interest rate pass-through but did not deal with economic loss or financial loss, or whatever. That is a real option and it is on the table. On the other hand, many people argue that interest rate changes are part of the overall financing cost and are therefore part of the overall capital cost associated with the building, and therefore the argument is made that those costs, unlike the costs of heating and maintaining the building, should not be passed through to tenants because unlike home owners tenants never get the capital appreciation when the building is sold. That is the argument on the other side. I understand your views, and those are the arguments on the other side.

Mr Mahoney: No, I have not articulated my views and I do not think you should—

Ms Parrish: I am sorry, sir. I did not mean to be presumptuous.

Mr Mahoney: —presume to put words in my mouth as to what I support and go for in any other way.

I am trying to arrive at an understanding of why we are in fact setting up a scenario—and if indeed we are, then I want to know that—where there are benefits—I mean, your argument that the tenant does not reap the benefits of the increased value in the marketplace is quite valid. At the same time, under today's real estate market they do not run the risk of losing their shirt as a home owner. I can show you in just about every street in my riding where there are power-of-sale operations ongoing right now and at substantial losses from what people paid, and yet they have no protection from interest rates.

Perhaps what you are suggesting as a preferred option is something that we should extend. Rather than criticizing it here, perhaps, I say, by way of sort of trying to arrive at some answers, maybe this should be extended to home owners where there is interest rate protection that they just cannot—why should we say that a landlord cannot pass on rate increases in interest rates but a bank can? Is a bank not a landlord when it holds your mortgage? Because they sure as heck own that home, even though it may be registered in your name. While there is a \$200,000 debt registered against a \$300,000 home, it is one third yours and yet you are now subject as a home owner to the whims of the financial institutions. And now this policy, as I understand it, the preferred option, would completely shield tenants.

Let me ask you if it would make sense, in your opinion, as you have said there is an option there, to put in a clause that would be very similar or tied into a “cost no longer borne” clause where if a landlord in a rental situation puts in new appliances and increases the rent, for example, for a period of time until those appliances are paid off—what has been happening traditionally is the rent does not come down, of course, once the appliances are paid off; it simply becomes part of the base. Would it make any sense to have a scenario where you could have a “cost no longer borne” clause and tie interest rates into that,

where you would say that if the interest rate at the time of renewal—and I am not talking about the sale of a building or a flip or anything like that. I think there is perhaps good logic for not allowing pass-throughs because you can get 90%, maybe even 100% financing if you are creative enough in the marketplace out there and simply pass on those usurious interest costs to the tenants. I do not support that, but if it is simply a matter of the mortgage coming due on the anniversary date and a renewal with a bona fide financial institution—

Mr Mammoliti: Is this a motion?

Mr Mahoney: It is a question you probably do not understand, George, but stick with me.

Mr Mammoliti: You lost me.

Mr Mahoney: I am sure I have. That probably happened several weeks ago.

The Acting Chair: Mr Mahoney, your time is just about up.

Mr Mahoney: Well, not if I am going to be heckled and interrupted when I am asking a very serious question to these people, Mr Chair.

The Acting Chair: Your time is just about up, sir.

NMr Mammoliti: Ask the question. Do not take 20 minutes to ask the question.

Mr Mahoney: Mr Chair, do you want to discipline your member?

The Acting Chair: Please wind it up, Mr Mahoney.

Mr Mahoney: Does it make any sense, then, to establish a situation where, as interest rates fluctuate upon renewal dates, you would fit that into a “cost no longer borne” scenario, up or down?

Ms Beaumont: I think that could be another option. As is indicated in this paper, what we have here is a series of options with an indication of the government's preferred option. There are other options and that could be an option. If you go back to the policy principles, one of the concerns with that would be complexity in the system, because what you would have to do is to track what is happening in particular rental situations.

Mr Mahoney: But you are going to—

Ms Beaumont: So you are going to subtract from the rent as well as add to the rent.

The Acting Chair: Okay, the time has expired. We will get back to the document now. As agreed, we have gone through the list of questions. The motion was defeated.

Ms Parrish: My colleague Dana Richardson will start with the issue of maintenance, on page 38.

Ms Richardson: I would like to deal now with the issue of maintenance. Inadequate maintenance is indeed one of the chief concerns of tenants in Ontario. Currently, we have a system that has both municipal and provincial standards of maintenance and methods of enforcement. Under the current system, under the Planning Act, a municipality has the discretion on whether to pass property standards bylaws, and of the 792 municipalities that have the power to do so, 440 have passed such bylaws.

Mr Tilson: Point of order: I thought there was an amendment that stopped that, that they apply right across the province, provincial property standards.

Ms Richardson: No. I will explain that. Under the Residential Rent Regulation Act the Residential Rental Standards Board was created. The standards board has filed regulations for a provincial standard, but it applies only in areas where there is not a municipal standard or if that standard is not adequate or adequately enforced. So currently we do have a three-level system as far as maintenance enforcement is concerned. First of all there is municipal inspection and enforcement. Then the matter, if there is a work order, can be referred to the standards board for review as to whether there is compliance with the municipal standard and if it is substantial and subsisting. Then the standards board reviews it to the ministry for determination on whether there is a rent penalty. This system, when a work order first enters the standards board until there is a rent penalty, on average has been quite slow, an eight-and-a-half-month time period for the rent penalty to be issued. This is a matter of some concern.

We looked at a number of options in this regard. The first would be to make it mandatory that municipalities adopt and enforce minimum maintenance standards. This would be a change from the current system where a municipality has the discretion on whether to pass such a bylaw. And when a municipality has the discretion to do so, it has a choice about how high the standard should be, what should be the priorities in that particular community as far as property standards are concerned. If there were mandatory municipal bylaws, there would be at least greater consistency in that all municipalities would have such a bylaw although they might vary from municipality to municipality.

A second approach would be to look at a code for existing buildings which would be a province-wide maintenance standard and method of enforcement. It still might be administered through the municipalities but there would be one standard across the province. This would allow for greater consistency but what it would also mean is that it perhaps would have a higher standard than currently exists for certain municipalities where they have indeed chosen to have only certain aspects covered by a property standards bylaw or indeed not to have one at all. So it would add to the complexity and to the cost of administration and also the cost for landlords to meet a higher standard. Such a code for existing buildings could be phased in so far as how comprehensive it was, as to what other regulatory measures were included in it, such as the fire code and the plumbing code, etc. But it would take some time to develop this kind of standard bringing in all of these different kinds of regulations.

The third option was to look at the rent penalties that currently exist. Currently there is a rent penalty that is a temporary halt to the collection of a rent increase, and when there is compliance the landlord can go back and collect that increase that had been halted. Or there could be a permanent halt to a rent increase until there is compliance.

That means the landlord could not go back and get the rent increase from the past. Depending on how serious the maintenance infraction was, there could be a system where you could reduce rents permanently or for a period of time if there was inadequate maintenance. Another way to deal with this would be not to allow an annual guideline increase if there is an outstanding municipal or provincial work order.

The preferred approach for consultation purposes is as follows: First, to retain the functions of the standards board but combine those functions with the decisions on rent penalties. This would require some administrative change, but it could speed up the resolution of maintenance issues and impose the rent penalties in a more timely fashion. It is tied very much to some further preferred approaches later on in the paper about what kind of hearing and administrative structure we would have for the rent control system.

The preferred approach would also assist the enforcement of maintenance standards with stronger rent penalties and more effective powers of entry and cost recovery for municipalities that have had to do the work because the health and safety of tenants was at risk, and their ability to collect the moneys spent as taxes. Finally, there would be fines for the failure to comply with maintenance standards or for charging tenants maintenance fees that would otherwise be covered in rent.

The next issue area concerns rent reduction. There are a number of features to rent reductions, and the three that we will be highlighting are: the challenge to increases within the guideline, illegal rent rebates and certain agreements between landlords and tenants.

Under the current system a tenant can challenge a guideline increase on three grounds: if there is a decrease in the standard of maintenance and repair, a decrease in services and facilities; an equalization, in that their rent is higher than a neighbour's rent in the same building; and for low maintenance standards.

The options considered would be to continue this system or to allow for certain modifications.

The first modification that was proposed would be, instead of having it on an individual basis, allow the whole complex to be decided at the same time when the maintenance standards or changes in services or operating costs apply to the whole building. Instead of having, for instance, 192 applications for the same thing, there would be one application that would cover the whole complex.

Another modification would be to increase the grounds on which there could be a challenge, and indeed, Mr Mahoney, one of the proposals is for financing costs no longer borne, which would be a reduction for interest rate changes, and similarly a capital expenditure cost no longer borne provision would be one of the options. Tenants could apply to have their rents reduced in those circumstances.

Finally, there is the option to continue the system where on a landlord's application to increase rents the tenants can raise inadequate maintenance levels or decreases in services and facilities as a defence to the rent increase.

Mr Mahoney: Can I get a clarification on that point, Mr Chair?

The Acting Chair: Point of information?

Mr Mahoney: Clarification just on the point that was made about the ability to apply for reduction in rent due to a reduction in the interest rates?

Ms Richardson: Right.

Mr Mahoney: Does that work in reverse? Would there be an ability to apply for an increase in rent based on increased interest rates?

Ms Richardson: Those two would be tied concepts, I would imagine. The financing costs no longer borne is not one of the preferred options. One of the reasons is that the increases are also not one of the preferred options, but those two things would possibly go together.

To summarize what the preferred option would be in this circumstance, it would be to allow tenants to challenge a guideline increase for matters that affect not only their own unit but also the whole building if there has been inadequate maintenance, if there has been a decrease in the services or in facilities or if there has been a municipal tax reassessment downwards, and also that tenants could bring forward their concerns in the context of a landlord's application.

1610

The second area about rent reduction concerns an ability for landlords and tenants to agree to change the rent, either to increase it or decrease it, related to the provision of services and facilities. Currently there is such a provision, but it only relates to parking and cablevision, so that if a tenant wants another parking space because he has a second car, he can make an agreement with the landlord without coming to rent review as long as the amount charged is the lawful amount for that parking space, and similarly, if he no longer needs the space they can make an agreement to reduce the rent.

The options that we considered would be to continue that system or to allow some modification in that system, and there are a number of areas where landlords and tenants commonly agree. One would be locker and storage areas, when you need one and then when you do not. Another would be on certain seasonal separate charges, such as air-conditioning. The use of an air-conditioner only in the summer months, for instance, is often something that landlords and tenants agree on. And similarly in the northern areas, the car plug-ins for block heaters are often offered on a seasonal basis. So the preferred approach would be to expand the list of the things that could be agreed upon but to regulate that amount by setting out, either by regulation or a rent order, how much could be charged for those extra services.

The final area concerning rent reduction is when there has been an illegal rent increase. There could have been an illegal rent increase taken because there was a higher than guideline increase or because there was a rent increase more often than once in a 12-month period, or indeed if the landlord had charged key money for when the tenant moved into the building.

We looked at a number of options in this area that would actually enhance the ability of tenants to recover moneys that had been illegally paid, and that would include looking at interest when there has been an illegal

payment made and to extend the monetary jurisdiction from the current \$3,000 to \$10,000, which would be within the new court reform guidelines.

Other features would be to look at allowing a deduction from the current rent when tenants are pursuing their remedies for collection or to allow them to obtain their money from the current landlord rather than having to chase the previous landlords to whom they had paid the illegal amount. And finally, in the case of a key-money offence, where currently there is no mechanism for a tenant to be required to be reimbursed after having paid the money, the landlord could actually be charged and fined for the offence, but there is no actual requirement in the legislation for repayment of the money to the tenant, so the suggestion is to make that available.

To summarize then, the preferred approaches would be to allow the compensation of illegally obtained money for key money, to extend the monetary jurisdiction to \$10,000 to also provide for interest when there has been an illegal amount, and finally, to allow tenants to deduct the amount owed to them after a determination has been made by a rent order and deduct that amount from their future rent payments.

Those were the issues set out for rent reduction and maintenance. Now Colleen Parrish would like to deal with the next two sections, on rent information and decision-making.

Mr Tilson: Mr Chairman, can I ask a question on the subject that was just addressed?

The Acting Chair: I am sorry, the questions are all deferred to the end of the presentation.

Ms Parrish: I will try to move through the next two questions quickly. The next two sections essentially deal with a number of administrative and I guess system structure for any rent control system.

The first issue, rent information, starts on page 46, and essentially the question that is really being asked relates to the establishment of the rent registry, which was one of the reforms established under RRRA at the request of both landlords and tenants that there be a sort of neutral source that could tell you what the rents are and what are the legal rents. We looked at two options in this area and in the end indicated that the preferred approach is to maintain a government-administered rent registry system.

The second issue is, what should be the legal status of information recorded in the rent registry? Should it just be some information or should it have some greater legal status than just information? We looked at a number of options there and on balance we have recommended that the approach for consultation be that the rent recorded in the rent registry be deemed to be the legal rent. In other words, there is a prima facie case that this is the legal rent if it is the rent registry, so landlords and tenants can depend on that. On the other hand, that could be rebuttable. If someone had better evidence and could demonstrate that this was not the legal rent, that it was recorded wrongly, then that could be rebutted by someone coming to the rent registry.

The next issue is what rent information should be recorded on the registry. Again, this is rather a technical

sue. Essentially under the RRRRA there are two kinds of rents. There is the actual rent and there is the maximum legal rent that you could charge, and there is often a discrepancy. A landlord, for example, does not always take the statutory increase. The landlord might have been told, "You can take a 5.4% increase," but they only take 5%, so their legal maximum is actually 0.4% more than they are actually charging. So the question is, what should you put in the registry, the actual rent or this legal rent that the landlord could have charged but did not charge?

Then there is also the issue as to how we get information, for example, about all of these separate charges that landlords may or may not be agreeing to with tenants and whether or not landlords have increased the number of units in their building and so on and so forth.

On balance, we have suggested that we continue to maintain the distinction between the actual rent and the maximum rent or the legal rent the landlord could charge and that the rent registry should record the maximum legal rent, and also that the registry keep up to date with any orders and that landlords that actually change the number of units they have or make changes in services should record that.

One of the reasons that we have preferred the option of maintaining the maximum-rent concept, although it does have its critics, is that it substantially reduces the burden in the system of recording and figuring out what the rents are. Once you have to actually figure out what the actual rents are, then you have to have a very elaborate system of tracking that, whereas this system allows you to simply record that in and increase the rents by the statutory maximum and you know what the actual maximum is in the system. Any other system would have a lot of administrative problems associated with it.

The next issue is really for what time period should the rents be filed. The current RRRRA required that the rents filed on the rent registry be July 1985 rents and landlords of larger complexes, seven and more buildings, were asked to file their 1985 rents. The issue is, as we move into a new rent control system, whether it is in place in 1991 or 1992, should we be saying to smaller landlords, "Please tell us what your July 1985 rents were," or whether that is not a somewhat unrealistic request.

The suggestion is that for the larger landlords, for which we have a good database on their rents, we should record their 1985 rents and keep them up to date, keep that registry up to date, and for the smaller buildings we should be asking them to provide 1990 rents, unless we have actual information about their rents between 1985 and 1990, which we may have because they may have an order and therefore we could simply record their order. The issue really is whether or not it is going to be too difficult to go back and obtain that information and not be essentially worse—the sort of aggravation and worry that it would put landlords through, and particularly the smaller landlords, and confusion for the tenants.

1620

It is also suggested that we allow for verification of the first filing so that we have a reasonably good database to jump off of for the future and that we also be allowed to

have powers in our statute to have periodic verification so that we can just sample periodically to make sure that our information base is up to date.

We also looked at the issue of whether or not we should have certain incentives to encourage registration in smaller buildings because up to now smaller buildings have not been required to register and this will be a considerable task to undertake, given the large number of small landlords. In the old system there was an incentive to file, and the incentive was essentially that you would reduce your rebate period. If you had an illegal rent, you would reduce your rebate period, which is six years, to two years. That was a little bit of an incentive to get you to file. We have not suggested that, because essentially we have suggested that we not go back to 1985 but we just proceed as of 1990 or whatever would be a current rent date. So we would essentially look at penalties for late filing, that we make that a continuing offence. In essence, we increase the enforcement in the area of penalties for information filing to have a better rent information system.

The next series of issues essentially deal with dispute resolution systems. Assuming that there is some decision that is going to be made in the system, that is, that there will be some discretion that will have to be exercised, either about a rent increase over the guideline or perhaps about reserve funds or perhaps about what is necessary or whatever, then there has to be some mechanism for deciding issues that have to be decided within the statute, and the question is, what is the best kind of system for resolving disputes about rents between landlords and tenants?

We have looked at essentially four main options. One is to maintain the current system, which is essentially an administrative review, in theory by the minister but in practice by the minister's delegated staff. Then that decision goes to the hearings board and the hearings board can have a hearing of up to three members to consider the decision that was made administratively, and then you can go to the courts.

That current system has been criticized as being somewhat long in terms of the period of time it takes to get a resolution. It is not uncommon that a case has gone to rent review and then the whole complex comes up again for review and the old issue from the previous year, the rent from the previous year, has still not been resolved. It is still in the system somewhere being resolved. So the criticism of that system has been that it takes a long time. On the other hand, an administrative system at the first level is quite efficient in comparison to a hearings system at the first level.

There are a number of modifications of the current system. In other words, you could have a current administrative system but essentially tighten up the hearings board approach by having only one member hear the case, for instance. You could also sort of I guess depoliticize the system by having the initial decision made by essentially a director of rents or some person other than the minister, which also I guess frankly reflects more on what really what happens, since of course ministers do not make these decisions themselves in real life.

The other approach would be to have one independent tribunal and the tribunal could hear the decision in the first case and then it could hear the appeal, which was the system they had under the Residential Tenancy Commission, and there are certainly some advantages to having an independent tribunal. On the other hand, having two hearing systems, particularly if the second hearing has three panel members hearing it, can be a more expensive system to run, and there are also some people who might feel: "Well, is the second group of hearing people really going to be independent? They are really working with these guys in the same organization." So there is also that perception around the independence of the decision-making.

The next approach, which is put forward as a preferred approach to see what the public thinks, is essentially a system where the first decision is a hearing system in which landlords and tenants have an opportunity to have a hearing before a hearings officer, and if there are issues of law which arise during that hearing that they wish to have resolved, those can go to the courts, but there should be no other appeal. This does allow members of the public to get what they often say they want, which is an opportunity to speak their mind. It can be made a little bit less intimidating for people who perhaps are not completely comfortable with complex written submissions, and the decision is, by and large, going to be final because in most cases there are not a lot of issues of law that are raised; they are mostly issues of fact which would be resolved in a fairly quick way and avoid long periods of delay. On balance, that approach is put forward for consultation.

I would also note that the kind of dispute resolution system you have probably depends quite a bit on what kinds of decisions you want to make. Clearly there is a limit to how many interesting things you can say about whether your heating bill went up or not, but if you decide to have issues such as, "Is this necessary?" "Did the tenants consent?" those are more sophisticated kinds of questions. So are questions like whether or not there is ongoing and deliberate neglect, whether there is failure of maintenance. Those involve more sophisticated kinds of questions. They could involve questions of credibility; that is, whether or not you believe the people who say, "Yes, I made a reasonable effort." Issues of credibility are usually tested in hearing processes because you can have sworn evidence and cross-examination and so on. So the kind of decision that you would want whoever they were to make is probably going to influence what kind of dispute resolution system you might ultimately want to pick. Those are connected.

We also looked at a number of issues around what kind of assistance could be provided to landlords and tenants who are affected by a rent decision. For example, we looked at whether or not there should be staff advisers to advise landlords and tenants, sort of like the workers' compensation system. We looked at whether there should be compulsory mediation or pre-hearings. For example, in auto insurance people are required to go through a process of mediation before they can have an arbitration of their accident benefits. We could encourage voluntary mediation or pre-hearing. There could be conditional order systems

in order for people to resolve issues of capital, tenant consent and so on before they actually spend money. We could control agents, for instance, in this area. We could allow for the merger of applications to have more efficient hearing. One thing we could also look at in terms of giving landlords and tenants a greater opportunity to participate would be to have an advisory committee for greater dialogue.

On balance, we have indicated the preferred approach would be to provide funding to landlord and tenant groups to advise landlords and tenants, and the main reason was that it appears that, by and large, the government is perceived as being a good source of information but it appears that most groups feel more comfortable in choosing an advocate who is not a government employee. However, the option similar to the Workers' Compensation Board is certainly there.

The other is to improve the process of hearings by creating the power to have discretionary mediation, a pre-hearing—not make people have mediation; I mean, if they are not going to get along, I guess there is not much point but to have it as a discretionary mechanism—to have a conditional order system, to have the ability to combine applications that are dealing with the same period of time and the same unit and to create a rent control advisory committee.

We also dealt with the issue of improved enforcement and we dealt with a whole lot of issues around what I guess I would call tightening the screws on the system to deal with situations that have been problematic in the past—dealing in a stronger way with key money offences; looking at issues where there has been harassment of tenants who have tried to carry out their rights to dispute rents; situations where there may have been an attempt to prevent inspections to ascertain whether there has been adequate maintenance. We also looked at issues as to whether there should be court-ordered restitution in the area of persons who have been subject to offences under this act. We have looked at limitation periods. We have looked at a number of possibilities.

1630

In the end, we have suggested that there should be additional offences created under the statute:

Failure to obey maintenance and standards orders that are issued by provincial rent regulators.

Make it an offence for superintendents to collect key money. What happens now is that the superintendent is only guilty of a key money offence if he is doing it on behalf of the landlord, and lots of times the landlord has no idea the superintendent is doing it; it is just the superintendent has decided to make a little money on the side. Right now we cannot prosecute them when that does occur.

If a landlord knowingly charges illegal rents: Right now we have a problem in that landlords inherit illegal rents. They did not create the illegal rents, they just continue to charge them. We cannot deal with them there.

Harassing tenants who try to exercise their rights under the statute and hindering inspections: We have suggested an extension of the limitation period for prosecution.

However, we have actually indicated that the failure to obey a rent rebate order should not actually be an offence.

The reason for this is that we provided enhanced civil remedies for people to pursue their remedies. We feel that is more appropriate than to use the quasi-criminal approach to this.

We are very interested in the issue as to whether it would be possible to tie the failure to obey a maintenance order with a rent penalty automatically. Right now we can penalize landlords who do not meet maintenance standards after a hearing. There have been a number of suggestions that there should be an automatic penalty: If you do not comply with your rent order, you should not be able to get, for example, a guideline increase until you do obey your maintenance order. That is a very interesting idea and we are looking into the sort of legal mechanism to see whether or not that would be possible to do.

The last area is the issue of rental housing protection and my colleague Susan Taylor will be dealing with that issue.

Ms Taylor: We spent the last little while talking about changes to the Residential Rent Regulation Act.

Mr Tilson: My question, Mr Chair, is when do we get to ask questions here? Some time later in the day?

The Acting Chair: When the presentation is finished.

Ms Taylor: I am now going to deal with the Rental Housing Protection Act.

Experience has shown in the past that increased regulation of rents has sometimes led the owners of rental properties to change their properties so that they are no longer subject to rent regulation.

The Rental Housing Protection Act was passed in 1986 and it requires that the owner of a rental property who wants to convert, demolish, renovate or sever a rental property obtain municipal council's approval before doing so. There are three mandatory criteria which the municipal council must consider and one of those criteria must be met before an application can be approved. When a municipality is considering one of these applications, the province provides comments to the municipality.

We have considered whether this system should be changed, and the options considered were maintaining this system where municipalities administer the act, or continuing municipal administration but having a stronger provincial role in providing direction to the municipalities, or taking back administration of the act so that provincial officials or a provincial board would make decisions on these applications under the act.

The preferred approach for consultation is to continue with municipal administration of the act, to allow a certain amount of regional differentiation in how the act is administered, but to provide stronger provincial direction to municipal councils when they are making individual decisions.

The second issue under rental housing protection relates to extending coverage to smaller municipalities. Currently, municipalities are covered under the Rental Housing Protection Act by listing them in the regulation, and the listed municipalities are those which have populations of 50,000 or more. Therefore, small municipalities which may be part of a larger urban or metropolitan area

may not be covered by the Rental Housing Protection Act. So an option would be to include municipalities based on criteria other than simply population, such as inclusion within a metropolitan housing market area, and that is the preferred option for consultation.

The third issue under the Rental Housing Protection Act relates to changing the criteria, which I mentioned earlier, that municipalities have to consider when they are reviewing an application under the Rental Housing Protection Act. Some of the options considered are whether the mandatory approval criteria should be changed to include criteria that would require tenant approval of an application and requiring applicants to show why they could not replace rental units and relocate tenants to similar units at similar rents before the municipality could approve the application on the basis that it would not have an adverse effect on the rental housing supply.

Another option would be to leave less discretion to municipal councils as to what is an adverse effect. It is fairly general in the regulations as they read now, to allow some municipal discretion, but that could be tightened up.

Another option would be to introduce mandatory protection for tenants; that is, to require municipalities to impose conditions that would provide for moving costs, provide for continued tenure for a specific period of time, or other appropriate conditions.

Another option would be to require mandatory, as we call them, linkage payments that would be required to be made to a municipal or a provincial housing fund and would be used to replace rental units that are allowed to be removed under the act.

The preferred approach is to authorize municipalities, when they are approving conversions or demolitions, to require such a linkage payment.

The next issue area relates to whether the Rental Housing Protection Act should be extended to cover smaller rental properties and condominiums. Currently, the Rental Housing Protection Act exempts rental properties with four units or less and it also exempts all registered condominiums.

An option considered was lowering the number of units that would be covered so that properties with two, three or four units would be subject to the act. Another option would be extending the Rental Housing Protection Act to cover units or properties, condominium properties, that are rented. The preferred approach is not to change the act in these areas.

The next issue area relates to extending coverage of the Rental Housing Protection Act to mobile home parks and to land lease communities. The Rental Housing Protection Act only covers mobile home parks in very limited circumstances currently and it has been suggested that the act should be extended to cover these kinds of properties, so that they would be protected from conversions to co-operatives or conversions to other uses by redevelopment of the property.

Another option would be, if there is extended coverage to cover mobile home parks, that coverage would either be in all municipalities, because many mobile home parks are located in municipalities with populations of under 50,000 which are not currently covered by the act, or extend the

protection only in those municipalities that are over 50,000.

The preferred approach is to not deal with this issue at present, because there is an interministerial committee looking at many aspects of this type of community, and the government decided to await the report of that interministerial committee before making decisions in this area.

1640

The next issue relates to extending court powers under the Rental Housing Protection Act to allow the return of illegally renovated units to their former configuration and to reinstate tenants at the former rents. Currently there are provisions in the act that allow courts to order units that have been converted to be reconverted back to their rental residential use, to allow reinstatement of tenants and to allow the courts to order the cessation of that conversion work. There are not similar provisions for renovations. The options are to extend such authority to the courts to deal with renovations or to retain the current provisions, and the preferred approach for consultation is to extend the courts' powers to cover renovations.

The final issue relates to renovations and repairs that require vacant possession. Currently, the Rental Housing Protection Act allows municipalities controls over renovations and repairs that are so extensive that vacant possession is required. This was designed to allow municipalities to control luxury renovations or, as Colleen prefers to call them, discretionary renovations. However, if the new rent control system provides some acceptable treatment for determining and permitting necessary or minimum-standard capital improvements under the rent control system, then it is likely that it would be redundant to also approve such renovations under the Rental Housing Protection Act.

The preferred approach in this case is to eliminate Rental Housing Protection Act coverage for renovations and repairs where the number of units is not changing. If the landlord is reducing the number of units in the course of his renovation, then Rental Housing Protection Act approval would be required. But if the number of units is remaining the same, then Rental Housing Protection Act approval would not be required.

That completes our presentation on the discussion paper.

Ms Beaumont: Mr Chairman, that is the end of what has been a lengthy presentation on a very complex subject. As I indicated earlier, we are available for questions now or at the committee's discretion at any other time, and of course we will be continuing the practice we have had during your hearings on Bill 4 to have members of the staff from the ministry present at your meetings. So if questions come up during the course of your discussions, they can be answered or extra material provided.

The Acting Chair: We have a limited amount of time. If we give each caucus five minutes in rotation, does that seem to be a fair way to go about it? That is okay? And in rotation until we run out of time.

Mr Tilson: It will take Mahoney five minutes to say his name.

The Acting Chair: Then it will be your turn. Okay, we will start. Ms Poole was the first to have her hand up so we will start with Ms Poole.

Interjection: There goes my five minutes.

Ms Poole: You bet your sweet bippy.

Turning to page 57 of the consultation document where you are talking about the administrative structure when you say the preferred approach for consultation where you are talking about the hearings, you say, "to support the administration of the system, provision should be made for some cost recovery through fees." Now, on the very next page, when they are talking about, "The preferred approach for consultation is to provide funding to landlord and tenant groups but not create Ministry of Housing landlord and tenant advisers," I am very confused by this. It sounds like on the one hand you are going to charge tenants and landlords a fee for the hearing and on the other hand you are going to give landlord and tenant groups money for consultation. Does this not seem inconsistent?

Ms Parrish: The fees charged would be very moderate fees. Many people ask: "Should the taxpayer pay for the rent system or the rent review system or the rent control system? Should there not be some element of user pay?" There is in the court system. If you go to small claims court, you have to pay whatever it is to file your claim. Other people think it should be entirely borne through the taxpayers. I think that is an issue we want to hear about. The moneys that would be given to landlords and tenants would be moneys given to their groups to assist landlords and tenants through the system, to sort of give them information on where to go or those sorts of basic kinds of information, and also continue things like the after-hour service where tenants can phone and get basic information. There is also currently some funding now to small landlords as well, essentially to help them help themselves through the system.

Ms Poole: But you are proposing that the Ministry of Housing not provide advisers?

Ms Parrish: Not as the Workers' Compensation Board does. They actually have workers' advisers and employees' advisers. We do propose that there can be continuation of the educational component of the ministry that the ministry continue to provide information, education, you know, how to do things, friendlier forms, but not have a system in which staff of the ministry explain to a particular landlord or tenant how to essentially defend his case or to create his case or whatever.

Ms Poole: Have you done a cost-benefit analysis of what the new system—I mean, obviously you do not know exactly what the new system will entail, but you do know that it is going to change and you do know that certain things that are contained in the old act, certain complex things, will not be contained in the new act.

You have advocated that a new rental hearings board be set up, that the old rent review administrators would be—not abandoned, but disbanded. Are you going to end up with more or less bureaucracy?

Ms Parrish: There is not going to be another hearings board there. The concept is that there would be a hearings

officer system where it would be hearing at the first level and the appeals would be to the courts. So you would actually be eliminating an entire layer of bureaucracy which currently exists.

Unfortunately, I think the point that you made is very valid. It depends on what options are chosen in the end. Some of the decisions that might have to be made around capital, for example, are quite complicated.

Clearly, the less increase that you permit above the guideline, the greater your ability to reduce the bureaucracy. The more discretion you want to have exercised about whether something is necessary or whether something should be permitted or whether an interest rate increase is bona fide and not an improper arrangement, the more likely it is that you are going to have costs associated with that. So it really depends on the system that is chosen. Certainly there are a number of options here that would reduce costs and there are others that would probably increase costs.

NMs Poole: I think I probably only have time for one more question, so I would like it to be about the standards board. You have made recommendations as a preferred approach on page 39 to retain the functions of the standards board. I wonder if within that mandate you would be considering also expanding the functions of the standards board.

I think you probably will have seen the amendment by law that I tabled for Bill 4 where tenants could be advised by the standards board if a landlord was not making reasonable attempts to comply with a work order, so that the standards board could advise the tenant and the tenant could automatically deduct the guideline increase from the rent without having to go through a long, arduous rent review process. Could you see the standards board powers being expanded to cover this type of thing?

Ms Richardson: Our preferred approach—it is something similar but not exactly the same as you have proposed—would be to speed up the system by, instead of having a separate board make that determination as to whether it was a substandard maintenance subsisting violation, that decision would be made by the rent administrators or hearings officers at one point. It would speed up the system in that there would not be the separate level of decision-making at all. So instead of bringing the rent decision to the standards board, bringing the standards board function to the rent decision is what we are suggesting.

650

Mr Tilson: Mr Chair, I find this whole process just preposterous, the very fact that I have got five minutes to speak—

Mr Mahoney: And I have none.

Mr Tilson: —and Mr Mahoney has none and the minister expects us to provide intelligent comment on this green paper. Our time is restricted for the following week and our time is now restricted to five minutes to question very complicated issues.

Accordingly, Mr Chair, I would move that the time be extended to allow us to expand our questioning of these ministry officials.

The Acting Chair: We have a motion by Mr Tilson to expand the question period. Is there is a time limit on that, Mr Tilson?

Mr Tilson: I do not know why we should have any time limits. These are very serious issues. I can understand the issue of, obviously, not sitting into the evening, but there may be further time in which these officials may have to come back and we may have to question these officials on other areas. The way I understand the rules that have been established by this committee now, I, Mrs Poole and Mr Mahoney, we have got five minutes per party, per caucus, to question them. Mrs Poole I see is throwing away all kinds of notes. I am sure she would go on for a while longer, and I do not want to overdo complimenting her, but I am sure she would have many more legitimate questions.

The Acting Chair: Okay, thank you, Mr Tilson. The clerk was working on the motion. If she has it worded, maybe we could read it and then debate the motion.

Clerk of the Committee: Mr Tilson moved that the time for questions from committee members be expanded.

I do not know, Mr Tilson, whether you wanted to add specifically to an agreed-upon time or—

Ms Poole: You want to invite the ministry to come back?

Mr Tilson: Yes, to come back and we will talk some more. I mean, is this it, five minutes?

The Acting Chair: I did not set the time limit. It was already set at five. I am just following procedures.

Mr Owens: I was going to make a suggestion prior to Mr Tilson's motion. Understanding that this is a complex document and a complex issue, the folks from the ministry have indicated a willingness to come back, but my suggestion would be that we set up a time outside of the committee meeting for those members, whether it is government or opposition, to meet with the ministry officials to clarify any questions that they have.

My concern is in setting a precedent that may carry over into other functions. The schedule has been set and has been agreed to by all three parties.

Mr Mammoliti: I am going to have to agree with my colleague Mr Owens. I think that in order to expedite things, perhaps that may be the best way to go as well.

Mr Tilson: It is called a gag order.

Ms Harrington: I certainly think that with a document of this size, for all of us, no matter what party we are in, we do need time, first of all to go home and read it, and then have further questioning. This presentation has been most helpful, and it would have been good even to get the questions as we went through it, I thought, but now that we have sort of gone through it and we can see the whole extent of it, I think that there should be some time for questioning.

I know that the time has been very tight, as Mr Owens mentioned. I am trying to think of when. Obviously the ministry people are going to be available. I guess it is up to this committee to set when we could try to squeeze the extra

time in. You may want to stay later tonight. Unfortunately I cannot, but I have no objection to the rest of you staying.

The Acting Chair: That is very kind of you. Mr Mahoney?

NMr Mahoney: Mr Chairman, I guess you kind of get the drift from the fact that this keeps coming back, this time by Mr Tilson, who was not with us the last time it came back and now he raises the same concerns that indeed I raised.

I support his motion, and I am hearing government members saying, "Gee whiz, we'd like to accommodate you, but there isn't time." I would like to remind them that you guys are running the show, you are setting the agenda and you are controlling the clock, and in fact by failing to extend hearings, by failing to allow for proper time for questions, you are taking away from our responsibility really, from our ability to do our job as members of the opposition. We have a responsibility on behalf of the people of this province as opposition members to question the officials who are before us, to probe and to question the government and the minister and the ministry and everybody involved in this process and we are being muzzled and not being allowed to do that.

I have never seen this. I just find it very objectionable and at the very least would like the committee to agree to the principle that we find more time to allow these questions to take place. Perhaps Thursday afternoon would be a goal. We are scheduled to sit I believe until 6 o'clock, if need be, on Thursday. I assume that is the end of our clause-by-clause process, and we should at the very least agree to the principle and I personally would like to see us agree to setting aside a couple of hours. I think it needs a couple of hours. I just go through a little of this document and you know, just as you go, off the top, you can get numerous questions of whether it is about catch-up to market or equalization or intervenor funding or new taxes that are being talked about or further municipal authority, further municipal power. I mean, it is almost endless.

I suggest, with respect, that we also have a responsibility to, within reason, respect the agenda of the government and make sure our questions are relevant and are on the bill and on the paper and on the issues that are before us, and they are. Mrs Poole has pages of notes, I have numerous questions, I am sure the Conservatives have numerous questions, and frankly, in your zeal to make your minister happy and to get the ball rolling so that you all look good in front of the Premier, you are taking away the opposition's ability to function, and I object to that strenuously, reverend—sir.

The Acting Chair: Ms Poole, then Ms Harrington.

Ms Poole: That is a hard act to follow.

Just in relation to Mr Owens's concern that we are setting a precedent, I sat on four different committees in the last Parliament and never once was the opposition or members of the government blocked from having the ministry come back if we had not finished the questioning or finished the presentation. In fact, I do not think I ever recall an incident where the ministry got through its presentation and question-and-answering without having to

come back. It seemed to be a matter of course. So I do see that as a problem.

I think the only thing we have to do is decide where there would be some time that we could allot it, and I think on another occasion when we had the ministry troop back to see us we brought in some sandwiches for lunch and between 12 and 2. If that is possible for one day this week maybe the Thursday, so it would give us all time to go through this, I think that might be a compromise that everybody could all live with and the ministry would get lunch and get to come back and be grilled for two more hours.

Ms Parrish: Oh, joy.

Mr Owens: You have got four more votes down there.

Ms Poole: Then that would also give—government members have not had an opportunity to ask one question today and I am sure they would like to as well. I do not think this has to be a—

Mr Mammoliti: You have taken up all the time.

Ms Poole: Sure. I have no problem with that. If we are given two hours, I think it should be all members participating.

Ms Harrington: I just wanted to point out this is the first time that I have seen this document, and we certainly have questions too, because we are going to be dealing with it even more intimately than you.

I wanted to say a couple of things. First of all, this has been a very long day. We started, most of you, around 9 o'clock this morning in here, and to say that you want to go on at this point is sometimes beyond human effort.

But it is wrong to say that we want everybody to have five minutes. That is not the case at all. I want to point out to you, we are not muzzling you, we are going to be talking about this all summer, all spring—I mean, it is going to go on for ever, it seems. So do not worry, you will hear lots about it.

I would move for some kind of compromise position that when it is agreeable to us, physically speaking, to deal with this—I think it is best we go home and read it further again—and for the ministry people to be here, the suggestion was made of a lunchtime, say Thursday lunch? That would only be a start. We are going to give you all spring too.

1700

The Acting Chair: Are you making an amendment to the motion?

Mr Mammoliti: I would like to make that amendment, Mr Chair.

The Acting Chair: Just a minute, just a second.

NMr Mammoliti: Friendly amendment; lunchtime on Thursday.

The Acting Chair: Hold on now. Let's pull back on the reins here. Mrs Harrington, you still have the floor.

Ms Harrington: Oh. That was my suggestion.

The Acting Chair: You were going to pass to Mr Mammoliti? He is next on the list.

Ms Harrington: Sure.

Mr Mammoliti: I would like to make that amendment, Mr Chair.

The Acting Chair: Just chomping at the bit.

Mr Mammoliti: A friendly amendment, if possible, I do not know; Thursday at lunch, from 12 to 2.

The Acting Chair: I am just waiting for the clerk to rite the motion.

Interjections.

Mr Tilson: I have no problem, as Mrs Poole has just stated, to take it as a starting point, but it may well be—again, I remind the government members of the terms of reference that have been given to this committee. It was pointed out to me this morning, because I did ask for them specifically, that one of the terms of reference is for this committee to provide comment on the green paper. And I quite frankly do not intend to do it on five minutes, and maybe a lunch hour may not be enough time either. Obviously, if the government is throwing us morsels, I will take morsel, but it may well be that more time is required. So if he is asking me to amend my motion, I would certainly agree with that—

The Acting Chair: Mr Mammoliti has done that.

Mr Tilson: —on the understanding that we may require more time.

The Acting Chair: Okay. Maybe we had better have the clerk read the amendment before we get into any more debate on the amendment. We have to deal with the amendment before the new motion.

Mr Mahoney: Does that include morsels for lunch?

Ms Poole: Sandwiches, I guess; the sandwiches I asked for, or better.

Clerk of the Committee: Mr Tilson moved that the time for questions from committee members to ministry staff relating to the discussion paper be expanded.

Mr Mammoliti moved that the motion be amended by adding after the word “expanded” the words “to Thursday 1 February from 12 noon to 2 pm.”

The Acting Chair: Any more discussion on the amendment? Okay, we will call the vote on the amendment. Those in favour?

Mr Mahoney: Are we voting on the motion, as amended?

The Acting Chair: We have to deal with the amendment before we deal with the main motion.

Ms Poole: Mr Tilson, do you agree to a friendly amendment?

Mr Mammoliti: He has agreed to the friendly amendment.

The Acting Chair: He likes giving me a hard time. I do not mind. It makes me feel wanted.

Ms Poole: Can we just agree to a friendly amendment so we have one vote?

Mr Tilson: Yes, I do.

Ms Poole: Mr Chair, he agrees to a friendly amendment, so we can have one vote.

The Acting Chair: One vote? All in favour? Mr Mahoney, is that a yes? Thank you, sir. Did it hurt?

Mr Mahoney: That is right. I want morsels.

The Acting Chair: We will now vote on the motion, as amended.

Mr Mahoney: Can Hansard show that my critic ripped my arm off and pulled it up into the air?

The Acting Chair: We will make sure it is sewn back on before we leave.

Mr Owens: Mr Chairman, I would like to suggest that the government's five minutes be added to our time on Thursday at lunch.

Mr Mahoney: The Tories have not had theirs.

Mr Tilson: I should get 10.

Mr Owens: No, no. Mr Tilson used his five minutes.

The Acting Chair: He had 15.

Mr Owens: In an admirable fashion. He used his five minutes as he saw fit.

Mr Mahoney: —free vote on that motion.

The Acting Chair: Oh, oh. Mrs Harrington.

Ms Harrington: I just wanted to commend the staff for the document. At first it looked like tough going, but now that you have helped us through it, it is a little bit more readable and I think you have done an excellent job. Thank you.

I do not know if you want to comment on that.

Mr Mahoney: We commend the staff for doing that job, no problem—not to be confused with agreeing with any of the contents.

Ms Poole: Nor the political direction.

The Acting Chair: I too would like to thank the staff for a very thorough document. We have run out of time, so we will stand adjourned until 10 am tomorrow morning in room 151. Thank you.

The committee adjourned at 1705.

CONTENTS

Monday 18 February 1991

Rent Control	G-65
Afternoon sitting	G-65
Adjournment	G-68

STANDING COMMITTEE ON GENERAL GOVERNMENT

Chair: Mancini, Remo (Essex South L)
Acting Chair: Abel, Donald (Wentworth North NDP)
Acting Chair: Ward, Margery (Don Mills NDP)
Vice-Chair: Brown, Michael A. (Algoma-Manitoulin L)
 Bisson, Gilles (Cochrane South NDP)
 Drainville, Dennis (Victoria-Haliburton NDP)
 Duignan, Noel (Halton North NDP)
 Harrington, Margaret H. (Niagara Falls NDP)
 Mahoney, Steven W. (Mississauga West L)
 Mammoliti, George (Yorkview NDP)
 Murdoch, Bill (Grey PC)
 O'Neill, Yvonne (Ottawa Rideau L)
 Scott, Ian G. (St George-St. David L)
 Turnbull, David (York Mills PC)

Substitutions:

Mahoney, Steven W. (Mississauga West L) for Mrs O'Neill
 Owens, Stephen (Scarborough Centre NDP) for Mr Duignan
 Poole, Dianne (Eglinton L) for Mr Scott
 Tilson, David (Dufferin-Peel PC) for Mr B. Murdoch

Also taking part: Ward, Margery (Don Mills NDP)

Clerk: Deller, Deborah

Staff: Richmond, Jerry, Research Officer, Legislative Research Service



G-14 1991

G-14 1991

ISSN 1180-5218

**Legislative Assembly
of Ontario**

First Session, 35th Parliament

**Assemblée législative
de l'Ontario**

Première session, 35^e législature

**Official Report
of Debates
(Hansard)**

Tuesday 19 February 1991

**Journal
des débats
(Hansard)**

Le mardi 19 février 1991

**Standing committee on
General government**

**Residential Rent Regulation
Amendment Act, 1990**

**Comité permanent des
affaires gouvernementales**

**Loi de 1990 modifiant
la réglementation des loyers
d'habitation**

Chair: Remo Mancini
Clerk: Deborah Deller

Président : Remo Mancini
Greffier : Deborah Deller

Published by the Legislative Assembly of Ontario
Editor of Debates: Don Cameron



Publié par l'Assemblée législative de l'Ontario
Éditeur des débats : Don Cameron

Table of Contents

Table of Contents for proceedings reported in this issue appears at the back, together with a list of committee members and other members taking part.

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at (416) 965-2159.

Languages in Hansard

Hansard reports all debates in English or French as spoken by the participants. It does not translate remarks made in either language. Headings and tables of contents reflect language use.

Subscriptions

Subscription information may be obtained from: Sessional Subscription Service, Publications Ontario, Ministry of Government Services, 5th Floor, 880 Bay Street, Toronto, Ontario, M7A 1N8. Phone (416) 326-5310, 326-5311 or toll-free 1-800-668-9938.

Table des matières

La table des matières des séances rapportées dans ce numéro se trouve à l'arrière de ce fascicule, ainsi qu'une liste des membres du comité et des autres députés ayant participé.

Il existe un index cumulatif des numéros précédents. Les renseignements qu'il contient sont à votre disposition par téléphone auprès des employés de l'index du Journal des débats au (416) 965-2159.

Langues paraissant dans le Journal des débats

Le Journal des débats rapporte en anglais ou en français les débats, selon la langue utilisée par les participants. Les remarques faites en l'une ou l'autre langue ne sont pas traduites. La langue des en-têtes et de la table des matières reflète la langue utilisée.

Abonnements

Pour les abonnements, veuillez prendre contact avec le Service d'abonnement parlementaire, Publications Ontario, ministère des Services gouvernementaux, 5^e étage, 880, rue Bay, Toronto (Ontario) M7A 1N8. Par téléphone : (416) 326-5310, 326-5311 ou, sans frais : 1-800-668-9938.

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON GENERAL GOVERNMENT

Tuesday 19 February 1991

The committee met at 1041 in room 151.

RESIDENTIAL RENT REGULATION AMENDMENT ACT, 1990

Resuming consideration of Bill 4, An Act to amend the Residential Rent Regulation Act, 1986.

The Vice-Chair: Good morning. Welcome to the morning sitting of the standing committee on general government. I would first like to apologize for the late start. Two of our members are fogged in. We cannot find them and it has been a little bit of a problem for establishing a quorum this morning. Nevertheless, we are here now and things are about ready to start.

Our purpose today is to do a clause-by-clause on Bill 4. As this process will be new to many of us, we are relying on the assistance of the clerk and the legislative counsel, who are here beside me and who will help us with any technicalities that may arise.

Mr Tilson: Mr Chair, before we start the process, I had asked a question in Ottawa for the staff to produce a report on profits. I think it was the report that the last government had commissioned. I believe it was commissioned with the LePage firm. I am wondering whether that report has been made available. I think it would be useful to us before we start the clause-by-clause discussions.

The Vice-Chair: I think that is a good point. Colleen Parrish is with us. She undertook to provide that at the earliest possible date to the committee.

Ms Parrish: I have just spoken to my staff. We sent it down to be copied and it is still being copied. We will do our very best efforts to get it here this morning. It is hard for me to judge as to whether it was useful in relation to Bill 4. Certainly in relation to rent control options it is of interest. The study essentially looks at the rate of return for landlords over a fairly prolonged period of time.

Mr Tilson: Bill 4 deals with rent control.

Ms Parrish: Yes, it deals with the moneys available to landlords, certainly. For example, the report does not deal specifically with some of the issues that are in contention in Bill 4, such as capital repairs and so on, but it does deal with other issues like economic and financial loss.

Mr Tilson: Yes. I do not really intend to get into a debate with you. I just think it would be useful for this committee to have.

Ms Parrish: I can only say we asked for it to be copied. There just seems to be some particular problem. I will ask my staff again to make sure—the problem is it is a huge study and I guess there has just been a logistical problem.

Mr Tilson: It is a huge study?

Ms Parrish: It is very thick.

Mr Tilson: Oh, really?

Ms Parrish: Yes.

Mr Tilson: Did it have an executive summary or anything like that?

Ms Parrish: Honestly, I do not know. I will just speak to my staff and see if they cannot do their very best efforts. I am as disappointed as you are.

The Vice-Chair: Just while Colleen is checking: Mrs Poole.

Ms Poole: Yes. Actually, Mr Chair, I wanted to also ask the ministry for some documentation that was requested in Sudbury. Perhaps we should wait until Ms Parrish is back.

Interjection: Maybe we might even just need one copy per caucus.

Ms Parrish: Yes, that is what I was saying, that they should send over as much as they can as soon as they can.

Mr Tilson: Yes. I guess the question is that I was led to believe that there was substantial information in this report and the staff have commented that it may be more relevant to the green paper discussions. I do not want to put you through unnecessary photocopying. The difficulty is I do not know what is in it, I do not know what it says.

Ms Parrish: Yes, I can only apologize. It appears that it was just one of these slips, that the copy centre did not understand that it was supposed to do it yesterday. They did not do it. Now we are trying to get it done as soon as possible.

Mr Tilson: Sure. Thank you.

Ms Poole: My request stems from information asked for by the Chair when we were in Sudbury. We had discussed a number of issues such as flipping and economic eviction. I believe the Chair did ask for specific information by the Ministry of Housing at that time. That was about a week ago. I wonder if that information could be tabled at this time.

The Vice-Chair: Ms Parrish, I believe that also was requested again in the Ottawa meeting of last Friday morning. The issue, I think, was flipping—a definition and some idea of the incidence of that.

Ms Poole: I believe there were actually two aspects to it in Sudbury. We had talked about economic eviction and some statistics in that regard, and we had also asked for some statistics about flipping, so I think we are actually asking for two separate items.

Clerk of the Committee: I have the request, actually, if you want me to read it out.

The Vice-Chair: If you would, please.

Clerk of the Committee: "The committee requested a definition of 'flipping' and the number and extent of flips broken down into region, and the definition of 'luxury' and 'unnecessary renovations' with 'necessary' being defined."

Ms Parrish: That request was made in Ottawa, is that correct?

Ms Poole: What about the request that was made in Sudbury by the Chair?

Clerk of the Committee: I do not have the Sudbury request.

Ms Parrish: We were asked about economic eviction and we did write a letter on the issue, and we also responded to it orally. The bottom line is we indicated that we did not have statistics on economic eviction per se because there has not been any collection of evidence in that manner.

On the issue of flipping and luxury renovation, the question that the clerk read out that was asked in Ottawa, my staff and I have prepared material and we have forwarded it to our senior people for approval today, and we hope to get that to you this afternoon.

Mr Owens: I am just wondering, in order to simplify things, if we could check Hansard from Sudbury just to determine what was asked for. I recall that we did make a request with respect to economic eviction, but there was a lot of discussion around how you would determine whether it was in fact an economic eviction or not. But we should just check the Hansard instead of debating back and forth here about what we asked for and what we did not.

The Vice-Chair: That is an excellent suggestion, Mr Owens.

Ms Poole: Just one last comment: I agree with Mr Owens, I think that is what we should do, but it seemed to me that there were two parts to Mr Mancini's request, and the one we decided was feasible and doable by the ministry and the other might be difficult to obtain. Could we get that clarification as soon as possible and get that documentation from the ministry prior to getting too far into clause-by-clause?

The Vice-Chair: I take it the ministry believes it can supply the information for this afternoon's session?

Ms Parrish: We are making our best efforts. We have prepared the material at staff level and we are just forwarding it to our senior people who have done the transmittal of the material to the committee today.

The Vice-Chair: Thank you. I guess we are about ready to begin the clause-by-clause.

1050

Section 1:

The Vice-Chair: We will begin with section 1. Are there questions or comments or amendments to section 1 of the bill?

Mr Tilson: Our party is concerned with subsection 1(2), which is the subsection dealing with mobile homes. We do have an amendment but perhaps someone could give us some comments specifically as to why this subsection is going to be in when specifically the minister has informed us—I do not know whether he has informed us in committee, but I know he has made statements—that this would be dealt with under interministerial review. I think he did say it yesterday, as a matter of fact. The green paper as well states that mobile house sites and land lease

arrangements would be under interministerial review. Therefore, my question is why this section is here.

Ms Harrington: What the minister mentioned yesterday, or we discussed, was that the mobile home parks are under review but that is with the Rental Housing Protection Act. We feel that it is clearly still within the jurisdiction of this bill, the Residential Rent Regulation Amendment Act.

Mr Tilson: I can say that this type of discussion came up somewhat in the minister's home riding of Windsor when we attended in Windsor and we had two or three individuals appear, giving pro and con arguments, of course. Those discussions centred around a number of areas involving mobile home sites, the typical argument of which was that the Minister of the Environment or a ministry could require that the standards in mobile home parks be increased—the water system, the sewage system, those types of things—and normally with municipalities those could be substantially upgrading matters that normally would be the subject of municipalities bearing those costs. The point has been made to this committee that because of the substantial nature of those costs, it would be very difficult for a landlord to make those expenditures and indeed the pass them on to the tenants. It would be very difficult for the landlord and very difficult for the tenant in situation such as that.

The minister, as I recall, did make a comment that—in fact, I think that is where he first made the comment that the whole subject of mobile homes would be dealt with under other legislation. This amendment, as I understand it, was made in response to a recent Divisional Court decision this year—I cannot remember the name of it—which said that the subject of mobile homes is outside this legislation. I assume that is why this legislation is being submitted by the NDP, to say, "Sorry, Divisional Court, this is within this legislation."

The reason why I am putting this forward is that I agree with the minister that the whole subject of mobile homes and land lease arrangements should be outside this legislation. It is something completely different from the apartment type of tenant, the apartment type of landlord. If there is a problem with a tenant in an apartment building or it could be a multi-unit dwelling, and there are difficulties for whatever reason, the tenant has the option of moving on. The difficulty with mobile homes of course is that it is very difficult for a tenant to move on. First of all, there are not that many mobile home parks, sites, and the expense that it would entail for them moving from one site to another would be tremendous.

So at that time in Windsor I concurred with the minister that this subject of mobile homes, home sites and land lease arrangements should not be in this legislation. Could you comment on that?

Ms Harrington: I would like to comment on that and then I will turn it over to Colleen to comment as well.

This amendment is strictly a technical amendment that clarifies that the RRA covers both mobile home parks and/or the single-family dwellings in land lease communities and mobile home parks where the site is rented and the unit or structure is owned by the tenant on the site.

The act also applies to situations where both site and structure or unit are rented. Because this subsection is a matter of clarification of the original policy intent, it is retroactive to 1 January 1987—subsection 2(2)—with the exception of court decisions that have been made before 9 November 1990. Thus, the Divisional Court decision made on this issue in the case of Cartwright versus Jutasi will not be overturned.

Mr Tilson: Before you pass that on, I understand that. I understand that portion. What I do not understand is the comments that have been made by Minister Cooke—and he made those yesterday; I am sure he made them to this committee—that this whole subject is under interministerial review. If it is under interministerial review, then why is it in this legislation?

Ms Harrington: It is under the Residential Housing Protection Act that it is under review. Would you clarify it further, Colleen?

Mr Tilson: I understood his statements were that the entire subject of mobile home sites and land lease arrangements was under interministerial review, which is exactly what this subsection is.

Ms Harrington: I remember what was said, yes.

Mr Tilson: So is he making exceptions now, that some things are and some things are not? I just do not understand where he is coming from when he makes such a statement.

Ms Parrish: Perhaps I could give you some idea of what I am thinking behind this. Essentially, when the Residential Tenement Regulation Act was passed it was very clear that the policy intent was that land lease and mobile home parks communities were covered, and if you go back and look at the RRRA material, it makes it very clear that that was the policy intent and that is what people thought they were going at the time.

Mr Tilson: The courts did not agree with that, of course.

Ms Parrish: Then the drafting raised a sort of technical problem around a certain kind of situation, essentially the situation where the house, the modular home in this case, was owned and the land rented. All that this amendment is doing is clarifying what people thought the original policy intent was, and that is different from extending or changing a law. The RHPA was clearly never intended to cover mobile home parks, never tried to and there was never any drafting that tried to do that. So it would actually be a policy change. All this is doing, I guess, is sort of putting the status quo back to what people thought it was at the time the RRRA was passed and essentially holding the status quo in place on this issue until these wider issues about how mobile home parks and land lease communities should be addressed.

That is the distinction that is being drawn, between whether you simply are just fixing up what everybody thought was the law as opposed to extending or changing to a new policy.

Mr Tilson: As I indicated, I understand that. I understand why this section is being put forward. It is being put

forward to do away with the decision that was made by the Divisional Court. The Divisional Court said that it was outside this legislation. This section says no, it is not and it is quite clear now.

1100

My question is that having heard my comments, I hope you would agree that there is a distinction between the mobile home site and the land lease arrangement and the apartment dweller, the apartment building dweller or the multi-unit dweller who lives in fixed structures. I agreed with the minister that it is most inappropriate that this subsection be in this specific legislation which is designed for the fixed multi-unit dweller; in other words, the apartment owner or the basement apartment, the rent of condos, those types of fixed units. I happen to agree with them on that, that the mobile home site and the land lease arrangements are quite different matters. Could you comment on that, Mrs Harrington?

Ms Harrington: As far as my dealing with this section of the act is concerned, I felt that what we are doing is just restating that it is under the RRRA.

Mr Tilson: That is not what my question was, Mrs Harrington. My question was, is it appropriate that this subject be in this specific legislation, because that is what the minister commented to us in the past, that it should not be, that it should be under separate legislation, which is why of course it is under interministerial review.

Ms Harrington: Yes, it should be in.

Mr Tilson: If we acknowledge that, then would you concur that this section should be taken out and dealt with when the interministerial review has been completed?

Ms Harrington: Under the long-term legislation I believe this will be revisited, as it was mentioned in the green paper.

Mr Tilson: But if it is inappropriate that it be in this type of legislation, why are we putting it in now?

Ms Harrington: To clarify the position that it was in the original RRRA.

Mr Tilson: You are saying one thing at one moment and another thing some time else. Either it should be in or it should not be in. You said a minute ago that it should not be in and now you are saying it should be in. Which is it? Your minister has already said that it should not be in. The subject of mobile homes is not a—

Ms Harrington: What he said was that it should be in Bill 4 and that it will be revisited in the green paper.

Mr Tilson: Notwithstanding the fact that the minister says that it is not subject to this type of legislation.

Ms Harrington: If you would care to hear the minister on that, I would be willing to defer this section until he is with us tomorrow morning, if you would like to discuss that with him.

Mr Tilson: Sure, I am agreeable to that.

The Vice-Chair: Is there unanimous consent to stand down section 1 until the minister can be present? Yes? We have unanimous consent to stand down section 1 of the bill.

Section 1 stood down.

Ms Poole: Mr Chair, I was on the speaking list for that.

The Vice-Chair: Yes, you were.

Ms Poole: Would you prefer I retain my comments until tomorrow?

The Vice-Chair: Mr Owens was also on the list. I think it would be most appropriate to wait until tomorrow to deal with it. We have gone as far as we can this morning, I think.

Section 2:

The Vice-Chair: Are there comments, questions or amendments to section 2 of the bill?

Ms Poole: Might I make a suggestion that at the beginning of each section either the parliamentary assistant or a representative of the ministry describe the purpose of the section and what it is to change from the original Bill 51?

The Vice-Chair: I think that is a very good suggestion.

Ms Harrington: Yes. I thought the clerk would read the section first and then I was to comment. Is that your understanding?

Clerk of the Committee: No. I can do it if you like, though.

The Vice-Chair: I think all members have copies of the bill. I do not think it is necessary to read the bill.

Ms Harrington: Okay.

Ms Poole: I do not know whether it would make it easier for Hansard, Mr Chair, if the section was indeed read out before Mrs Harrington commented on it, just for anybody who actually does read the proceedings. As highly unlikely as it may appear, there are people who do read Hansard. It would clarify for them what we are talking about.

The Vice-Chair: The normal procedure is that the clerk does not read the section. She would read any amendments that were put, but the section is not necessary. But if the committee wishes, the clerk would be most happy to read the section in. I see no problem with that, if that is the wish of the committee.

Ms Harrington: Okay.

The Vice-Chair: It looks like it is agreed, to me.

Mr Duignan: No.

The Vice-Chair: Seriously?

Mr Owens: Why would we want to have to read through the whole section as opposed to past process, which is just the amendment? It does not make any sense at all. Why do we want to veer from past practice?

The Vice-Chair: I am at the will of the committee. I am just trying to ascertain what your wishes are here. That is my job, to do what you wish. So if there are objections, I would gather we would not deviate from standard practice.

Mr Owens: That would be my suggestion.

Ms Harrington: Okay.

The Vice-Chair: All right. Would you like to explain the section, Mrs Harrington?

Ms Harrington: Hopefully you have looked at the section. This amendment permits the simplification of the information which must be sent out in the notice of rent increase form. Previously, before a landlord could increase the rent for a rental unit, a notice of rent increase had to state the amount of the increase, expressed both in dollars and as a percentage of the current rent charged and the maximum rent. The 90-day notice period to tenants has not changed.

Are there any comments?

The Vice-Chair: Mr Tilson?

Mr Tilson: A question to anyone—even to you, Mr Chair. The question I have is, I understand that form has already been prepared and distributed to various organizations around the province. Is that correct?

Ms Harrington: It has been tested with various groups to see if it in fact was a simplification and if people approved of it and agreed that it was an improvement over the past.

Mr Tilson: My understanding is that that has been said by the various rent review people to be the form that should be used.

Ms Harrington: What was that?

Ms Poole: Mr Chair, would it be possible to table the form with the committee so we could have a look at it?

Ms Harrington: It has already been in use this year in your comment?

Mr Tilson: It has been suggested that that is the form that should be used.

The Vice-Chair: We have a request that the particular form be tabled with the committee.

Ms Harrington: Okay. Tomorrow?

Mr Tilson: I am sorry?

Ms Parrish: Tomorrow, sir?

The Vice-Chair: That the precise document, Mr Tilson, will be tabled with this committee. Just continue. That is just a clarification of where we are, I think.

Mr Tilson: So we are going to put this section down until tomorrow too?

The Vice-Chair: No, there is no suggestion that it be stood down, at least not to this point. The only thing that was asked by Ms Poole was that the particular form be tabled with the committee.

Mr Tilson: I guess if that is being consented to, the difficulty is, if we do not have the form, can we properly pass this section?

The Vice-Chair: If the committee wishes, we can certainly stand it down, if that is the suggestion you are making, Mr Tilson.

Mr Tilson: That is the suggestion I am making.

The Vice-Chair: Mr Tilson is suggesting that we stand down section 2. Is there unanimous consent for that request?

Mr Drainville: No.

The Vice-Chair: There is not unanimous consent for the request.

Mr Owens: Just on a point of clarification as well from the clerk, is it not appropriate that once the parliamentary assistant finishes her description of the clause that the clause should be moved for acceptance before debate and discussion takes place?

Clerk of the Committee: The Chair has asked for questions, comments or amendments to section 2, which opens up the discussion.

Mr Owens: But in terms of proper procedure, should the clause not be moved before we start making amendments?

Clerk of the Committee: No, it does not have to be.

The Vice-Chair: Actually, it has been moved because it has had second reading in the Legislature. It is before this committee, so it is taken to have been moved.

Are there further comments on section 2 of the bill? Amendments? Questions?

Ms Poole: I would just like a clarification for that. There did not seem to be unanimous consent by the government members that this be stood down until tomorrow, so I understand that we are going to be asked to vote on this without seeing the form in relation to it. Is that correct?

The Vice-Chair: That is correct.

Ms Poole: Then I withdraw my request. It seems to me redundant to see the form that this section applies to after we have voted to approve or to reject this particular notion.

The Vice-Chair: Mr Tilson.

Mr Tilson: I guess my question is to the staff or to Mrs Harrington, whether we can properly vote on this section if we have not got the prescribed form before us. Mrs Poole has stated we have been asked to vote on something that we cannot even see.

110

Ms Harrington: I had asked for the form to be here as well, and I was told there would be some paper coming tomorrow which included the form.

Mr Tilson: It could say, "Go to the moon and back." I mean, I do not know what it says. To be fair, we really should see it before we vote on it. It could say anything. I do not think this government is delegating all its authority to the bureaucrats yet, hopefully.

Ms M. Ward: The current section in there, section 5, uses the words "prescribed form." We are using the same wording here, "prescribed form." I do not think that this sets out what that form is and I do not think we have to see it in order to understand the meaning of this subsection.

Mr Kwinter: We had no idea when the original bill was introduced whether or not the committee had a chance to see the form, but certainly the representatives of the ministry and the parliamentary assistant have stated that there is a form and it has been tested. It has been given out to certain people to look at to determine whether or not that form is better than the old form. It seems to me absurd that a section of this bill which calls for this prescribed form that no one on the committee has seen is passed without seeing that form. I do not see it as a major problem, I just think that, almost as a courtesy to the committee, they

should see the form so they can determine whether or not there are problems they can see with the form.

Ms Harrington: I have no problem in deferring this until we have the form.

Ms M. Ward: May I ask a question?

The Vice-Chair: Mrs Ward?

Ms M. Ward: My question is for the ministry staff. Would a form ever change while legislation is in effect?

Ms Parrish: Yes.

Ms M. Ward: That is precisely the point I was trying to make, that a change in the form is not—

The Vice-Chair: Mr Drainville.

Interjection: She just said yes.

Mr Tilson: It has been tried and tested.

The Vice-Chair: Order. Mr Drainville has the floor.

Mr Drainville: I took the view that Mrs Ward has taken before, but I certainly do not want to stand in the way of the committee. I mean, I took the view of Mrs Ward that there was no need to see it, but if it is important to the committee, I am quite willing to forget that and indicate that we can stand down the section.

Mr Mammoliti: I too do not have a problem with deferring. However, I just heard now that this form does get amended during the course of a particular legislation. I really do not think it matters, and to be honest with you, I think that, hearing that, perhaps we should pursue and go on to voting on this particular section without deferring, because if that is the case, then I guess the opposition is going to be asking for all kinds of forms in the next however many sections we are going to be talking about, and I particularly do not want to do that. If this form was a standard form that would not get changed, then I could say that they have a particular concern that this should be dealt with. However, if it gets changed and it has been practice to be changed, then I really do not see it interfering with our vote at this point.

Ms Poole: I believe that the intent of this motion is to make it easier for tenants to understand the form and to make the form much simpler, and I certainly 100% support that aim. However, I have dealt with the Ministry of Housing for many years now, and while I have the greatest respect for the people in the Ministry of Housing, their definition of simple and mine are two entirely different things and their interpretation of simple is not necessarily what you and I might think. So I would be very reluctant to pass this amendment whose purported intent is to make the form simpler if in fact we see this form and in no way, shape or form is it simpler.

I think it is a fairly simple request. I can tell you that if we see the form, whenever it is, whether it is this afternoon or tomorrow, I fully intend to support this motion. I just would like to see with my own eyes that this form is going to serve its purpose.

Ms Harrington: May I ask staff to comment on the form?

Ms Parrish: I apologize that the form is not available today, and I have asked my staff to go and get a copy of

the form that was tested. The process is that we have given the form to development to an independent group that specializes in sort of simpler form creation. It is called the Canadian Legal Education Corp or something like that. They go through a process of testing the form, which occurred last week. As a result of testing the form, a number of people said: "Well, this is better but it's not so good." As a result of the input we got, we are now revising the form again, and that is why it is not available today but will be available tomorrow.

I have asked my staff to try to obtain for you I guess what I would call the form that we are trying to fix and improve after testing with landlords and tenants, and my staff have informed me that they can get copies of the form this afternoon. We will do our very best efforts. I do not want to bore you with all these details, but I just want to assure you that we are making every effort and there is no attempt to try and keep any information from the members of the committee.

Mr Tilson: First of all, I would concur with Ms Poole that obviously we need to simplify matters such as this and I wholeheartedly support the intent of it. I think, though, we have just heard an example of the fact that a form has been sent out, it has been reviewed and it is determined that the form is not perhaps the form that was recommended by the ministry, that the ministry staff are making corrections as a result of that.

I think that the people in this room, this committee, may have some intelligent remarks to make with respect to the form. They may not; they may concur with it. But we have been going around this, this committee. I do not think any of us qualify ourselves as experts yet, but we certainly have heard a lot of testimony about the needs of tenants and the wishes of tenants, and I just find it strange that we are voting on something that the ministry has already admitted was not prepared correctly in their revising. It may well be that this committee may review it and make further revisions.

I am only echoing what Ms Poole says. Our two members of the Progressive Conservatives intend to support this amendment in principle, but we would like to see the form first. That is all we are saying.

Ms Poole: After that eloquent speech by Mr Tilson, I am not sure I remember what I was going to say.

The thing is that the members of the government have repeated time and time again that this is interim legislation and that it will not be in place for a very long time, which means that this form will be fairly unlikely to change once it is prescribed, I would estimate, if we are talking a short period of time.

On the other hand, I would hope that not only has it been tested with the body that Ms Parrish has mentioned, which may be comprised of lawyers, but that also real people, such as tenants and landlords, have had an opportunity to test it as well. I think if it passes that test I certainly would not have any problem with it.

I do not think that we are going to be asking for any extended debate by standing this over until we see the form. My feeling is that, unless members have something

specific to say about it, we should immediately call the motion, once we have seen the form and had a chance comment. I certainly do not propose any delay.

Interjection: Do we have a motion for that?

The Vice-Chair: No, there is not.

Mr Mammoliti: On that particular note then, I am not too sure whether I would agree to defer till tomorrow.

Ms Harrington: This afternoon.

Mr Mammoliti: I would like to ask whether the staff could have that form for us this afternoon and perhaps just defer it till this afternoon, at which time we will proceed to take the vote.

The Vice-Chair: If you could be helpful to the Chair, I am a little confused. We started out with a member asking for unanimous consent to stand down this section. It was not given by the committee. After a little bit more discussion, the parliamentary assistant agreed that it should be stood down. Then we had some members from the parliamentary assistant's party indicating that they were not agreeable to standing it down. I really do not have a motion on the floor right now, so if we could have a motion—a request rather, a request for unanimous consent to stand it down till this afternoon, I would know where I am in this.

1120

Ms Poole: I would like to give you a formal request, Mr Chair, that this section be stood down until this afternoon after we have had an opportunity to see the prescribed form set out by the ministry.

The Vice-Chair: Is that agreeable?

Section 2 stood down.

Section 3:

The Vice-Chair: Hearing no objections, we are on to section 3. Are there questions, comments or amendments to section 3?

Ms Harrington: This is a technical amendment that references the amount which may be charged by a landlord if a whole-building review order is pending. The landlord can only charge the lesser of the amount specified in the notice of rent increase or the amount of the previous maximum rent plus the guideline amount pending issuance of a whole-building review order.

This amendment refers to section 100c, a new section created by this bill. It integrates the guideline and the whole-building review provisions, part VI-A, with the guideline and the whole-building provisions of the rest of the act.

Ms Poole: I have a question of Mrs Harrington and then a question of legislative counsel. The question I have of Mrs Harrington is, is the intent of this provision that a landlord cannot receive more at rent review than the application has requested? If so, I heartily endorse that.

Ms Harrington: Could I ask staff just to clarify to make sure?

Ms Parrish: No. There is a later provision that does that, but this section does not do that. This one is really just a reference. It is just a cleaning up. It just references a

ew section which is created later on. There is a later part of the act that does exactly what you have indicated.

Ms Poole: The question I have of legislative counsel is, the Liberal caucus has tabled an amendment which would allow a rent increase over and above the statutory guideline for capital expenditures, and there are all sorts of provisions attached to that for tenant protection. In supporting this section, do we predetermine that there will be no rent increase granted over and above the guideline amount for any purpose? That is actually my question of legislative counsel.

Ms Baldwin: I am trying to figure out where to start. I am sure we will get to the end together. Just advising the committee from legislative counsel's point of view at a more basic level than that for a minute, section 3, and the ministry people can correct me if I am wrong, seems to be a section that is placed in the bill as a secondary sort of amendment because of what happens in section 8, where the new part VI-A of the act is added. It presupposes that 100c, which is part of the new part VI-A proposed, would pass. I say this with some reluctance, but it may be therefore that it would be appropriate for the committee to stand down section 3 until they know what they have done with part VI-A.

As to your particular question, 100c of the bill, I would have to look at that. Just give me a moment.

Ms Poole: Mr Chair, while legislative counsel is perusing section 100c, I will explain the source of my concern. The preamble for 100c, subsection (1), says, "No landlord shall increase the rent charged for a rental unit by more than the percentage permitted under subsection 71(1) unless," and then it goes into certain provisos. Because we have placed forward a motion that would allow in certain circumstances a rent increase above the guideline for necessary capital repairs, I am concerned that this would affect our section.

Ms Baldwin: I do not think that is a concern. I believe that your motion dealing with necessary capital repairs comes in the context of 100e, and that would come under clause (a) of 100c(1), which says, "an order has been made in accordance with this part." As your scheme proposes it, an order would be made under 100e. So the problem that you are raising I do not think is a problem.

Ms Poole: It may well not be, given the government response to my amendments anyway, but okay, thank you. But you would suggest maybe we should stand down this section until after we deal with part VI-A? Is that a suggestion?

Ms Baldwin: This section is in here as something that is necessary if part VI-A passes, and in that sense the committee may wish to deal with part VI-A before they do this, which is basically ancillary to it, even though in the context of the act it appears first.

Mr Drainville: I am not sure whether it would be appropriate right at this moment or in another moment, but I would like to call a five-minute recess, if we could.

The Chair: Do we have agreement? Agreed. The committee will be in recess for five minutes.

The committee recessed at 1126.

1142

The Vice-Chair: The recess is concluded. The committee is dealing with section 3 and we are presently having an explanation by legislative counsel of where we are. I think that would be useful. Then we can continue our discussions.

Ms Baldwin: The comments I was making before the break with regard to section 3 also apply to sections 4, 5 and 6. They do not apply to section 7, and let me just review this once very briefly.

Sections 3, 4, 5 and 6 are ancillary to section 8. They are fix-up stuff that has to be done to the earlier part of the act, assuming that the new part VI-A passes in essentially this form, but that does not rule out there being amendments to it.

There are two ways to proceed now, given that that is so. One of them is to defer sections 3 through 6 until after you have considered section 8. Then you know what you have and you go back and you deal with those earlier sections. The other is to go ahead and vote on and perhaps pass sections 3 through 6, assuming, I guess, is the best way to put it, that section 8 is going to be essentially passed. At that point, if something in section 8 is passed that conflicts with what you have done earlier, you are going to have to come back and revisit it in order to have a bill or a statute that makes some sense in the end. Those are the options open to you.

The Vice-Chair: Thank you very much. We are then dealing with section 3. What is the wish of the committee?

Ms Harrington: We should proceed with sections 3 through 6.

Mr Tilson: I do not understand why Mrs Harrington would say that, because if I understand the legislative counsel, if we pass these sections there will be a conflict. If we subsequently make further amendments to later sections, there will be a conflict with respect to these sections. The legislative counsel, as I understand her, appears to be recommending that these matters be deferred until we have dealt with the later sections.

Mr Drainville: No. What the legislative counsel said, I believe, is if there was any question as to whether section 8 would be passed or not, then we should defer it. I think under that proviso we should continue with 3 through 6.

Ms Harrington: If there was any change later in section 8, we would certainly be willing, with unanimous consent, to look at going back to do the housekeeping amendments.

Mr Tilson: Notwithstanding whether or not section 8 is amended or not amended, is there still a conflict? My question is to the legislative counsel.

Let's say everything goes as is. I guess I am getting back to Ms Poole's first question. Is there a conflict? There appears to me that there may be.

Ms Baldwin: I do not understand your question, a conflict between what and what?

Mr Tilson: With the subsequent section 8.

Ms Baldwin: The bill as it is drafted now, if sections 3 through 6 passed and section 8 passed, there would not

be a conflict, that would be fine. I do not think I quite understand your question.

Mr Tilson: I guess what I am just looking for some reassurance on is that there will be no conflict.

Ms Baldwin: The possibility of conflict would arise, or the possibility of problems would arise, if parts of section 8 were substantially changed. Short of that there will not be a problem.

My belief is that with most of the motions that I have seen, even if section 8 is passed with those motions there still will not be a problem with sections 3 to 6.

The reason I am making my comment about sections 3 to 6 being ancillary and the possibility of considering deferral of them is because I am trying not to prejudge whether, for example, the committee passes section 8 or whether there is a major, substantial change to it.

Does that answer your question?

Mr Tilson: Yes.

Ms Poole: I guess my only concern would be that our caucus does have substantive amendments to section 8 of the act, and we are being asked to vote on certain things which apply to provisions in section 8 which may actually run contrary to the amendments which we are proposing, and since at this stage we do not know which of our amendments will be passed and which will not be passed, it is hard for us to judge whether we should actually be voting in support of these other clauses.

I personally would have no problem in proceeding. My first choice would be definitely to stand down until after we have dealt with section 8, but I would have no problem in the alternative with proceeding with those sections 3 to 6, provided that we do have a guarantee by committee members that there will be unanimous consent to go back to them if we find later in the act that it is problematic, because you do need unanimous consent. Any time that a section is passed, we do need unanimous consent to re-open it. That would be my only concern. If members of this committee are willing to re-open it if there is a conflict that is discovered later on, then I have no problem with proceeding with these sections right now.

Mr Mammoliti: I think I would be safe in saying that you will not have that problem. I think we could agree to something like that, and on that note, I think that we should go directly to 3 and start talking, because it seems to me that we are stalling and I do not want to do that. So let's go to 3 and let's start doing something. How is that, Mr Chair?

The Vice-Chair: Thank you, Mr Mammoliti. Mr Owens.

Mr Owens: My comments would be similar to Mr Mammoliti's, other than that with respect to revisiting sections I think legislative counsel is here to advise us as to whether the legislation would be technically correct or not. Then if we did agree to amendments passed by either opposition party, we would clearly be willing to revisit the clauses in order to make sure that they are technically correct and not subject to legal challenge at a later date.

1150

Ms Poole: I would just like to give you an example. If we are looking at subsection 3(2), it names the date of January 1993. If this legislation is amended to make more acceptable to our caucus and, I am sure, to the Conservative caucus, then we may well not have a problem with that date. On the other hand, if none of our amendments are accepted and we feel that the impact of Bill 4 is going to be extremely dramatic and want to limit the time we might like to revisit that after we have had a look at part VI-A of the act.

That is the type of concern I am talking about, and if we do have the consent of the committee to revisit them, to re-open in the event we find that the amendments are not quite as popular as we had hoped they would be, then we would endorse George's fine, excellent suggestion that we proceed right now and get on with it. George did say that he would support some of my amendments if I was nice to him, so I am going to be very nice to George.

Mr Mammoliti: No, no, I did not say that. Do not put words in my mouth.

Ms Poole: He just did not say which ones.

Mr Mammoliti: I just wanted you to be nice to me that is all.

The Vice-Chair: I think just where we are now is dealing with section 3. In the absence of unanimous consent, I will deal with all sections in the order in which they appear in the bill. If the committee wants to change that, it needs unanimous consent. Are there questions, comments or amendments to section 3? Mrs Poole?

Ms Poole: Not at this time.

The Vice-Chair: Seeing no further comments or questions, is it the wish of the committee that section—oh, Mr Tilson?

Mr Tilson: I guess my question is the general intent of this 1 January 1993. My question is to Mrs Harrington or whoever feels she can answer it. If we follow the theory of that date throughout, is that suggesting that this moratorium period that is being suggested goes beyond the two-year period, that in fact it is two years plus three months?

Ms Harrington: That is right, but at this time I believe we are only dealing with subsection 3(1). We have not got on to subsection 3(2) yet.

The Vice-Chair: No. Actually, it is the whole section 3.

Ms Harrington: You want to deal with how much at once?

Mr Tilson: We are dealing with section 3, are we not, Mr Chair?

The Vice-Chair: We are dealing with the entire section 3 of the bill.

Mr Tilson: Yes.

Ms Harrington: Oh, I thought we would like to go to each one so I could comment on each one.

The Vice-Chair: We can do that. I was just looking for comments, to see if there was any interest in particular clauses.

Mr Tilson: I have a question, that overall question with respect to section 3. So in fact the initial announcement by the NDP that this was a two-year moratorium, in fact it is a two-year moratorium plus three months.

Ms Harrington: That is correct.

Mr Tilson: Is there any reason for that?

Mr Drainville: All the questions.

Ms Harrington: No particular reason, but we certainly are trying—

Mr Tilson: Just for the heck of it? Okay, that is a good answer.

The Vice-Chair: So there are no further questions or comments on section 3?

Ms Harrington: I had comments on a different subsection.

The Vice-Chair: Okay, fine.

Ms Harrington: To comment on subsection 3(2), this is a technical amendment that states that references to 100c as part of VI-A in this bill have a sunset date of 1 January 1993. Just as part VI-A sunsets, so do all references to its sections.

The Vice-Chair: Seeing no further questions or comments, is it the wish of the committee that section 3 carry?

Section 3 agreed to.

Section 4:

The Vice-Chair: Moving on to section 4, are there questions, comments or amendments to section 4 of the bill? Mrs Harrington, do you want to do all sections?

Ms Harrington: Subsection 4(1): This is a technical amendment that adds to the reference to whole building review, subsection 71(4), the new Bill 4 reference 100c, the whole building review provision in part VI-A. Where a landlord fails to inform a new tenant what the maximum rent for that unit is, even if he is not charging the maximum, then the landlord cannot increase the rent to the maximum amount for at least a 24-month period.

I will go on to comment on subsection 4(2). This is a technical amendment that states that this section, as part of the new part VI-A, has a sunset date of 1 January 1993. Just as part VI-A sunsets, so do all references to its sections.

The Vice-Chair: Are there questions and comments regarding section 4?

Ms Poole: I just have a general question which I suppose could be applied to the use of a sunset provision in all of these clauses. The government has made it very clear that it does intend to bring in new long-term legislation which in effect will revoke Bill 4, so I am wondering why there needs to be a sunset clause in there at all.

Ms Harrington: Why is the sunset date in there at all?

Ms Poole: Yes. If the long-term legislation is going to revoke Bill 4 at the time it comes into play, then why bother having a sunset clause in at all?

Ms Harrington: Just to make sure that this is not a continuing permanent legislation, as an outside deadline, to work within that.

Ms Poole: So it is really for optics, because you have already declared you are having long-term legislation that will be in place long before 1 January 1993.

Ms Harrington: That is right.

Ms Poole: So this is not an optical illusion but for the optics that this is supposed to be temporary.

Ms Harrington: To make sure that it is temporary, yes.

Ms Poole: So it has no substantive reason for being there?

Ms Harrington: It is an outside date. As you may know with your history in the Legislature, sometimes bills do take a long time and that getting long-term legislation within a year is quite a feat, so this is just to ensure that it will be done by this outside date.

Ms Poole: What happens if the long-term legislation is not in by this sunset date? I cannot see that it serves any purpose and at the same time I can see that it can be a detriment if for some reason you do not have your long-term legislation in. What you are saying is that we will be there without anything for that period.

Ms Harrington: You would go back to the RRRA then, if new legislation was not in place, because this bill then would end at that date, 1993.

Ms Poole: Which would seem to create a lot of confusion. I mean, you can put it in. I am just not sure it serves any real purpose.

Mr Tilson: It is better than nothing.

The Vice-Chair: Are there further questions, comments, or amendments to section 4? If not, is it the will of the committee that section 4 carry?

Section 4 agreed to.

The Vice-Chair: It now being 12 of the clock, I would—

Mr Owens: You are not standing down lunch, Mr Chair?

The Vice-Chair: No, I am not standing down lunch, Mr Owens. It now being 12 of the clock, the committee will adjourn until 2 o'clock this afternoon.

The committee recessed at 1200.

AFTERNOON SITTING

The committee resumed at 1410.

The Vice-Chair: Good afternoon. I see a quorum. Before we continue with clause-by-clause, our researcher, Mr Richmond, has some news for us.

Mr Richmond: Thank you, Mr Chairman. I know it has been in a big rush, but we have distributed a number of handouts on the two tax questions. For this I am very grateful to my colleague Ray McLellan, who assembled this information.

What the two handouts speak to, there is a brief memo on professional witnesses whom we have contacted to date, and there are some CVs also distributed that the committee can deal with. The clerk indicated to me, and I was aware, there is some overlap in some of the names. I know Larry Smith appeared on the lists that were distributed yesterday from the caucuses and there may be some other overlap. So, in accordance with the committee's wishes, we may be able to, so to speak, kill two birds with one stone if in fact we have these people. They may be able to also speak on the broader tax questions.

Ray has also assembled a memo on the Revenue Canada tax treatment of ongoing losses regarding residential rental units. Ray is here, and if members should have any questions, I would suggest you direct them to Ray McLellan. I do not know whether anyone does.

The Vice-Chair: Dana?

Ms Richardson: I do not actually have one, it is just a point of clarification on page 3 of Mr McLellan's letter. I think that we just spoke to you, Mr McLellan, about the reference to capital expenditures?

Mr McLellan: Yes. The second bullet point should say, "may not be deducted." That is for the capital expenditures. That was a typo, so you might note that.

Mr Tilson: Sorry, I did not hear that.

Ms Richardson: On page 3 of Mr McLellan's memo there is reference to a conversation with Janice Dulk and there are two points under that. In the second point it talks about capital expenditures, and the correction is that the full amount of capital expenditures may not be deducted in the year incurred.

Mr McLellan: Going to our background information in the rental income tax guide that has been handed out, on page 12 of that guide there is a discussion in chapter 2 of capital cost allowance and that reference is on the top left-hand under the heading "Calculating capital cost allowance." The second sentence says that, "You may not deduct the full amount of capital expenditures in the year you incur them." We could just clarify that.

The other document—

Ms Poole: Are you finished with that document?

Mr McLellan: I think so, yes.

Ms Poole: I just had one question about that document. I have just been perusing it and on page 3, in the first paragraph, it says, "If the rent is consistently not enough to cover the normal expenses, then you may not be

renting to earn income and you cannot deduct the resulting loss." So that would be for any landlord whose rents are not enough to cover expenses, they cannot then deduct the loss on their income tax. Is that correct?

Mr McLellan: It may be worth while to go to page 9 in the background document that we have, under the section "Rental losses." If the committee has a moment, it may be worth while just to briefly look at this section under "Rental losses." It says:

"If you incur the expenses to earn income, you may deduct your rental loss against your other sources of income. For income tax purposes, 'earning income' means that you can reasonably expect your rental operation to make a profit."

It goes on in the next paragraph to say, "If the rent is consistently not enough to cover the normal expenses, then you may not be renting to earn income and you cannot deduct the resulting loss." It goes on later on at the end of that page, "If you lose money because you are renting a property to a relative or for a lower rate than you would rent it to other tenants, you may not claim a rental loss," and on the top of the next page, page 10 says, "In other situations where your rental expenses are consistently more than your rental income, you may not be allowed to claim a rental loss because you cannot reasonably expect to make a profit." I think in discussions with Revenue Canada they made reference to the hobby farm situation, where you are constantly, or you could be constantly, running in a loss situation.

If I can just go back for a moment, in this tax guide as well you will notice on the second page that there is a discussion of what is new for 1990, and throughout this guide there are underlined sections where there are proposed amendments. Those proposed amendments are at the stage that they have not had first reading yet, and apparently there will be a press release tomorrow with the federal government with respect to these amendments to the act, so that is something that the committee may want to consider when that is clarified. But, as I say, throughout this document, where there are changes, they are underlined. In mine they are highlighted, but in yours they are underlined, so those are proposed changes to the act.

I think another point leads into the second memo that I have distributed. I have gone ahead, on Mr Richmond's instruction, to do two things; first of all to contact the Canadian Tax Foundation with respect to possible witnesses, and I have spoken with four people to date: Professor Larry Smith, Professor George Fallis, Professor Marion Steele at Guelph and also Professor Andrew Muller down at McMaster. When the committee has a chance they can read through my notes here as to when these people would be available and you may decide to follow up and contact some of those people.

With respect to receiving expert witnesses in the area of chartered accountancy, I have contacted the Ontario Institute of Chartered Accountants and I am waiting for a list to

come back from Peter Wilkinson with respect to possible witnesses to come before the committee.

I think that probably addresses those two memos for the committee.

The Vice-Chair: Thank you. Mr Tilson?

Mr Tilson: I do appreciate this information, particularly while we are going through the clause-by-clause, because it is a matter that has never been dealt with, at least that I can recall, up until the last day of the public hearings, and the New Democratic Party has consistently taken the position that capital expenditures, maintenance, those sorts of things, can be made, even at a break-even point. At the very least their argument is, even at a break-even point, in the hopes that ultimately their investment would increase. In other words, that is the business.

Page 10 of this document, which is the 1990 rental income tax guide, is really quite damaging to that philosophy.

"In other situations where your rental expenses are consistently more than your rental income, you may not be allowed to claim a rental loss because you cannot reasonably expect to make a profit."

From the testimony that we have been hearing around this province, landlord after landlord after landlord is saying exactly that. They will not be able to claim a loss. So they are getting a double whammy. They are getting hit with the act that they cannot pass on capital expenditures to the tenants and they cannot write them off as losses, because it is quite clear from looking at their records that they cannot reasonably expect to make a profit.

I really think, as I indicated in Ottawa, that this type of expert testimony should come to this committee before we go through the clause-by-clause discussions to enable us to formulate whether there should be some major changes recommended by the government to prevent this. Otherwise, landlords are going to be shattered. They are just going to be shattered financially.

Obviously that has been voted on and the government has decided—the New Democratic Party at least has decided; the opposition parties certainly did not—that we should wait until next week before we should hear someone, after the clause-by-clause discussions, and that is regrettable, because recommendations could come forward from some tax authority indicating flaws in Bill 4 which should be dealt with before we make our report to the Legislature; and that, unless the NDP changes their mind, will not be done. We will hear further information from these people, and unless they refute what is being said, it refutes entirely the whole premise of the New Democratic Party as to how rental housing should be operated.

So I would ask that the New Democratic members of this committee reconsider this position, assuming that one of these people can appear this week, before we conclude our clause-by-clause discussions, and hopefully they can appear this week.

1420

Ms Poole: I think Mr Tilson has raised some very valid concerns. We have as one of the expert witnesses listed, Professor Larry Smith. It is my recollection that we have already had Professor Smith on our list as an expert

witness next week for the long-term consultation. I see from Mr McLellan's document that Professor Smith would be available 20 and 21 February, which is tomorrow and Thursday, I believe, and I would suggest that it would be well worth the committee's time to have him appear, even if it is for a very brief period, to answer questions they have about this area.

Ms Harrington: All of these concerns from the tax guide certainly have been around for many years under the Residential Rent Regulation Act, and we know that situation, and landlords have been dealing and living with that situation for many years. We are in the process of trying to change that in the long-term legislation, and what Bill 4 does is just basically stop things in their tracks at this point.

We certainly—

Mr Tilson: On a point of order, Mr Chair: With all due respect to Ms Harrington, she is not stating the correct facts. The facts are that capital expenditures are ignored by Bill 4, and in fact they are taken right out of the—

The Vice-Chair: That is not a point of order.

Ms Harrington: The point I was making is that the situation was very similar under the RRRA and that is what we are operating under at the moment, and if there are changes to be made, they would be made in the long-term legislation. So we have to proceed.

Ms Poole: I would just like a point of clarification. If Ms Harrington says we are going to proceed, does that mean we are not going to call this witness forward and we are not going to explore this at all?

Ms Harrington: I believe the committee has agreed that we would call the witness for next week, as was agreed.

The Vice-Chair: Mr Tilson?

Mr Tilson: My question is to Ms Harrington, as the parliamentary assistant to the minister. We are standing certain things down; for example, the item with respect to mobile homes. We are putting that down until the minister can come and provide more information to us, so obviously there is time to discuss certain things.

I quite agree with Ms Poole. I do not think that we will be spending a great deal of time on this subject. It is a very narrow focal point and I think the matter could be disposed of very quickly, and Professor Smith is prepared to appear as early as tomorrow. I think that would be most useful.

Accordingly, because he has stated that, I would so move, that this committee invite him to appear tomorrow at an agreed-upon time.

Ms Poole: I would support that motion, because, for instance, a couple of questions I would like to ask Professor Smith involve the following.

One of the statements here says, "If the rent is consistently not enough to cover the normal expenses, then you may not be renting to earn income and you cannot deduct the resulting loss." I want to find out if that "may not" is discretionary and whether a landlord could in fact submit evidence to prove that he was attempting to earn income, and just because of the particular rental market, because of

certain restrictions by legislation, he has a result that he cannot control.

Other things that we might want to ask him: if, for instance, financial loss is taken into consideration as a mechanism when we are looking at this particular section.

We are, for instance, meeting for two hours at lunch hour tomorrow with the ministry—

The Vice-Chair: Thursday.

Ms Poole: Thursday, sorry; my days are all mixed up here. I would be agreeable to even using a half-hour of that time for this purpose. But I would be very surprised if the government is unwilling to have any exploration of this matter at all. Surely you must have questions about this, and it does raise concerns about Bill 4, financial loss, losses from capital expenditures and all sorts of issues.

Mr Duignan: The purpose of Bill 4 is a moratorium. Some of these questions are appropriately addressed to the permanent legislation, which we will be getting into discussing next week.

I am totally opposed, and this committee has already agreed to ask these witnesses to come here next week.

Mr Drainville: I would just like to speak to two issues. One is, again, this is a moratorium bill. I mean, we can dress it up in whatever clothing we like, but the reality is this is just one more attempt to have us stall the clause-by-clause. And we can sit here as long as the opposition wants us to on this particular issue.

I would like to also say, we have just received the list here that has been suggested in terms of possibilities of whom we might invite. We have not had time to look at that or to discuss that at this point. The suggestion has been that Mr Smith come. There are other people here, and we just need to look into that before we decide which one.

Ms Poole: On a point of order, Mr Chair: Mr Smith was the only one on this list who indicated availability this week and that is why I picked his name. I have no problems with the others, other than it seems to indicate that they are not available this week.

Mr Mammoliti: I do not know, is that a point of order?

The Vice-Chair: Mr Tilson?

Mr Tilson: Certainly the intent of this motion was not to delay the proceedings. I mean, whether this matter started on Friday, we now have new, very important information, which really confirms the information that was presented to us by the delegation in Ottawa.

I am certainly not trying to delay the proceedings. All I want to do is to investigate the repercussions of Bill 4, which is the whole purpose of what this committee is trying to do. I have no problem if Mr Drainville and Mr Duignan believe that I am trying to delay the proceedings, because I am not.

I will be pleased to withdraw the motion, on the understanding that if information is brought forward by whatever expert, whether it is Mr Smith or whether it is Mr Fallis or anyone else that the NDP wish, there would be unanimous consent to raise the issue for potential amendments as a result of those facts that could be presented to

the committee. If we have that undertaking of unanimous consent by the New Democratic Party, then I would withdraw the motion.

Ms Harrington: The decision was made clearly last week that we would invite this person, or a person, and it would be the following week from this week, and we would like to go with that decision.

With regard to amendments, amendments can always be made in the House, so I do not think it is absolutely necessary that we look at that stipulation.

Mr Mammoliti: I have never been one for the supernatural, and for a minute there I thought that I had an instinct, a gut reaction that Mr Tilson was stalling. But I am glad that Mr Tilson verified that he was not stalling the proceedings, because I was a little afraid there. You know, I am not one for the supernatural.

Getting more to the point, Mr Chairman, I feel that we are stalling, personally. I feel that discussing this at this point will not help.

1430

Mr Tilson: Stop referring to ghosts and let's get on with it.

Mr Mammoliti: I would suggest that we continue where we left off this morning and that we deal with this perhaps next week when it was scheduled to be dealt with. That is basically it, Mr Chairman.

Ms Poole: I would just point out to committee members, to refresh your memory, that the reason this matter came up to begin with was because a presenter to the Bill 4 hearings said this was the case, that they could not claim the financial loss, and this was going to impact on Bill 4. That was why it was originally suggested. At the same time, there was a suggestion that all three parties bring forward a list of presenters for the long-term consultation and a tax expert was one of those who was on the list. I believe that is where Professor Smith's name actually came up. There were two separate things occurring at the same time: One was for the long-term consultation and the other was for Bill 4.

I mean, we are going to spend half an hour, we are going to waste half an hour right here discussing this when right off the bat we could have said, "Let's have him come for half an hour." I have suggested during our lunch hour. Now how is that going to delay Bill 4? Instead, we are sitting arguing on this silly stuff about whether—

Mr Mammoliti: We are not arguing, you are.

Interjections.

The Vice-Chair: Order.

Ms Poole: Oh, there is no argument, Mr Chair. I suggest then we must have unanimous consent.

Mr Tilson: Does the Chair see unanimous consent?

The Vice-Chair: We have a motion before the committee. The motion, in case members need their memory refreshed, is:

Mr Tilson moved that Professor Larry Smith from the department of economics at the University of Toronto be invited to appear before the committee on Wednesday 20 February 1991.

Those in favour of Mr Tilson's motion?

Mr Tilson: A recorded vote, Mr Chair.

The committee divided on Mr Tilson's motion, which was negated on the following vote:

Ayes—3

McIlash, Poole, Tilson.

Nays—6

Abel, Drainville, Duignan, Harrington, Mammoliti, Ward, M.

The Vice-Chair: We do have a problem, at least a minor problem, though. The researchers have presented us with a list. Someone from that list will have to be chosen, according to the committee's motion. Therefore, we will have to make some kind of a decision on that fairly shortly.

Mr Drainville: Might I suggest, if it is possible, Mr Chair, that tonight just before we begin the hearings with Mr Thom we can just indicate at that point who should be invited? Perhaps we should talk ahead of time, because obviously, if there is going to be a disagreement between the various parties, we should not eat into Mr Thom's time, naturally. But if there is ready agreement, then it would be fair this evening just to quickly pass a motion to that effect. That would be my suggestion.

The Vice-Chair: If the Chair might, perhaps the easiest suggestion is the subcommittee could have a look at the names and give the clerk a suggestion.

Interjection: That is fine.

Ms M. Ward: I just wanted to point out that this memo says that they have requested the Ontario Institute of Chartered Accountants to prepare a list also. We do not have that yet. You might want to wait until you have those names.

The Vice-Chair: Mr Richmond, do you have a comment?

Mr Richmond: My understanding is we may well have some additional people to add to the list. Today is, what, Tuesday? One suggestion may be for the committee to wait until possibly, I do not know, tomorrow or Thursday, and through contacts with Mr McLellan I can give the committee an indication if we get further names.

The Vice-Chair: I think we should deal with this at least by tomorrow some time, just to be fair to the clerk and to the staff in order to arrange it. If we cannot have those names, we will have to go with the ones we have.

Mr Richmond: All right. I will do my best to bring whatever other names we get.

The Vice-Chair: Thank you, Mr Richmond. Once we have those names, is it the wish of the committee that the subcommittee deal with the selection of the witness? Do I have unanimous consent?

Mr Drainville: Mr Chair, just on that note—

Ms Poole: I hope this is not another stalling tactic, Mr Drainville.

Mr Drainville: Well, we will find out; any moment we will find out.

I have no difficulty at all with the steering committee looking at the issue, but as far as I understand, it is going to come back to the committee for agreement after the steering committee has looked at the issue.

The Vice-Chair: The practice has been in matters of this sort that, if the steering committee comes to a decision that is unanimous, which it would be if it came from the steering committee, that the clerk could go ahead without the consent of the committee.

Mr Drainville: Okay. If it is unanimous for the steering committee, absolutely, yes, that is fine. Sure.

The Vice-Chair: Good. Mr Richmond.

Mr Richmond: Just one other housekeeping matter. When Mr Mancini was in the chair last week, he and I discussed—and I have obtained this from the ministry—that the ministry would assemble in binders all the hand-outs that it has distributed to the committee to date. I have these here, one for each caucus, and I will give one to the clerk and the Chair. I will just hand those out so you know what you are getting. We just found that we were getting so much paper that it was getting confusing, with respect, Dana.

Mr Tilson: It depends how many binders you give us.

Ms Poole: Mr Chair, this is obviously another stalling tactic by the research.

The Vice-Chair: Thank you, Mrs Poole.

Mr Mammoliti: Have you got that gut instinct, gut feeling?

The Vice-Chair: That being completed, we will move on to the clause-by-clause examination of this bill.

Section 5:

The Vice-Chair: We are looking now at section 5. Are there questions, comments or amendments to section 5 of the bill? Mrs Harrington.

Ms Harrington: Subsection 5(1) is a technical amendment that references the time limit required for submissions on rent review applications under the new part VI-A. Whole-building review applications, now section 100d in part VI-A, have special time limits, as do applications for tenure review under section 63. These time limits are set out specifically in other parts of the bill and have not changed from the current RRRA, 1986.

All other applications have the following time limit requirement: The party making the application must file with the minister within 15 days the necessary documents and material supporting the whole-building review application under Part VI-A. Representations may then be submitted by a party other than the applicant no later than 30 days from the filing of the application. These time limit requirements are the same as in the current act. So we do not see any significant issue.

Subsection 5(2) is a technical amendment that states that this section, as part of the new part VI-A, has a sunset date of 1 January 1993.

Ms Poole: I would just like to be perfectly clear. Is there a time change involved, or is 15 days what it was before?

Ms Harrington: It is what it was before.

Ms Poole: That is what I had understood from your comments. So this is a technical amendment that does not change the time period at all.

Ms Harrington: That is right.

The Vice-Chair: Seeing no other questions or comments, is it the pleasure of the committee that section 5 carry?

Section 5 agreed to.

Section 6:

The Vice-Chair: Moving on then to section 6.

Ms Harrington: Subsection 6(1) is again a technical amendment that adds to the provision on whole-building review, with the new reference 100d as well as section 74 under Part VI, for applications with first effective dates of 1 October 1990 or after, time frames for parties to submit representations in response to directions from the minister. This is needed because a new Part VI-A has been created for Bill 4. This ensures that all parties to a whole-building review have an adequate opportunity to respond to each other's submissions.

1440

The Vice-Chair: Are there questions or comments on subsection 6(1)? There being none, subsection 6(2).

Ms Harrington: Subsection 6(2) is another technical amendment that states that this section, as part of the new part VI-A, has a sunset date of 1 January 1993. Just as part VI-A sunsets, so do all references to its sections.

The Vice-Chair: Are there any questions and comments about subsection 6(2)? Is it the pleasure of the committee then that section 6 of the act be carried?

Section 6 agreed to.

Section 7:

Ms Harrington: Section 7 specifically provides that the ministry may include an option for instalment payments in an order issued under part VI of the act. If the order is issued three months or more after the first effective date of increase and the tenant owes money to the landlord, the tenant has the option to pay immediately or in equal monthly instalments over a 12-month period. If the 12-month instalment option is chosen, the instalment payments will continue even if the tenancy is terminated. This applies to orders issued on 29 November 1990 or after.

The Vice-Chair: Thank you. Are there further questions or comments on section 7?

Ms Poole: I would like some clarification as to this section. You said that the tenant would be allowed to pay by 12 monthly instalments if the rent increase was what, three months, if the order was made more than three months after the date of the rent increase?

Ms Harrington: If the order is issued three months or more after the first effective date of increase.

Ms Poole: Okay. So then that gives the tenant the option of paying in 12 equal instalments or by a lump sum.

Ms Harrington: That is right.

Ms Poole: Is there any provision for what happens for instance, if a tenant moves in the meantime? Or what if, on the other hand, which has occurred sometimes, a tenant has moved and has been owed money by the landlord? Are there any provisions that would protect that tenant in that instance?

Ms Harrington: The first case you mentioned, where the tenant actually moves, the payments are still due. If you look at the section itself, it says, "Where the order permits the tenant to pay the amount owing by instalments, the tenant may do so even if the tenancy is terminated." So it is still due.

What was the other case, where the landlord—

Ms Poole: There are only two instances from a rent order. One would be where the landlord owes a rebate to the tenant, the other is if a tenant owes money to the landlord, and I am trying to find out if there is any provision for, if the tenancy is terminated, what happens in either case?

Ms Harrington: The first one I have just clarified. If the landlord owes money to the tenant, it is due, is that not correct; due to the tenant immediately?

Ms Richardson: The tenant has the usual rights under civil remedies to collect. There are provisions in the bill about certain orders that are being voided and phase-ins that are being voided which have a positive requirement on the landlord to make a payment within 60 days after royal assent. So it depends on the circumstance.

Ms Poole: So I gather what you are saying is that if a tenant owes the money, there are two possibilities, he can either pay by lump sum or in 12 monthly instalments, but for a landlord, he pays within 60 days. And does the tenant have the right to deduct that money from his rent if the landlord has not paid within 60 days?

Ms Richardson: Excuse me. For the two provisions where there has been a voided order or a voided phase-in, if the landlord does not repay within 60 days, then the tenant may deduct from his future rent increases or make a rebate application. So once again it depends on the circumstance.

Ms Poole: So I gather rent review would be sending out a notice to tenants or to the landlord concerned, hopefully to both parties, explaining the situation and their rights; and also, in the instance of a tenant who might be entitled to a rebate because an order is voided, would that tenant be notified by rent review as to the amount that the tenant is entitled to have and how this is to be effected? Would that automatically be happening from rent review?

Ms Richardson: Once again, it depends. We probably would not send out an order, but notification would be sent to the parties about the circumstances. We would not know how much the tenant had or had not paid in the interim, so it would be unlikely for us to actually specify the amount that is owing to the tenant, but assistance would be provided to the parties if they need some help in figuring that out.

Ms Poole: So the notice that would go out would say what the tenant or the landlord was entitled to and then it would be up to them to figure out how much they had paid or not paid.

Ms Richardson: We would make that information available to them.

Ms Poole: Okay.

The Vice-Chair: Are there further questions or comments? Seeing none, is it the pleasure of the committee that section 7 be carried?

Section 7 agreed to.

Section 8:

Ms Harrington: Section 8: This just is a completely separate part for the moratorium on rent increases with the first effective date on or after 1 October 1990.

How far do you want me to go?

The Vice-Chair: I think we will go through this section one clause at a time. So we will do 100a?

Ms Harrington: Okay. Section 100a is the definition of "gross potential rent." It is the same as is currently used under the RRRA, 1986, as provided in Ontario regulation 440/87, section 1. Gross potential rent is used in calculating the justified rent increase based on operating cost allowance, extraordinary operating costs, etc.

Mr Duignan: On a point of order, Mr Chairman: I am just wondering, @N = **The Vice-Chair:** Fine. Are there questions or comments regarding section 100a? I see none. Is it the pleasure of the committee that section 100a be carried? Carried.

Section 100b. Oh wait, section 2—long memory. We will go back.

1450

Section 2:

Ms Harrington: I do not have one of the forms yet.

The Vice-Chair: I have a copy of the bill here for the parliamentary assistant.

Ms Harrington: No, we are talking about the forms.

The Vice-Chair: The forms. Oh.

Ms Harrington: That is okay. I do not need them now.

The Vice-Chair: All members of the committee will now be, I hope, in possession of the forms that were requested this morning. Are there comments?

Mr Tilson: Does it matter? We have already voted on it.

The Vice-Chair: No, we have not. This section we stood down this morning. We are coming back to it. The information is now before the committee. Are there questions or comments on this clause?

Ms Poole: The ministry has been good enough to provide us with form 1 and form 2, and we have not had a lot of opportunity to peruse it, but I had some initial questions about it.

As far as the format of the calculation of rent is concerned, the first item is, "Your rent is now," which is I think quite straightforward. The next item is, "Your rent increase is," and I assume, for instance, if your rent was \$500 and the statutory guideline was a 5% increase, then your rent increase would be \$25. Am I right so far?

Ms Parrish: Yes.

Ms Poole: You have got a second option under number 2. You have got, "Or I am increasing your rent by" such-and-such a per cent. "This is higher than the guideline amount because: I have made an application for the new rental period. I am asking for an increase of" X. The amount that goes into the bar at the far right, "Your rent increase is" X amount of dollars, does that amount include what the landlord has gone to rent review for as a new rent increase?

Ms Parrish: This box that has a little box around it, is that what you are referring to?

Ms Poole: No. You have two spaces at the sides for dollar amounts and then you have a boxed amount at the bottom, on the right-hand side. I am talking about the second space on the right-hand side where a dollar amount is to go. What I am having trouble figuring out is if that calculation at the bottom of item 2 for an application for the new rental period, "I am asking for an increase of" X amount of dollars, if that is the amount that goes there.

Ms Parrish: This money down here? This \$30, for example, the amount that you would say the rent increase is? Your example was \$25, you would write in \$25 there, and then the sort of box at the bottom would be \$525.

Ms Poole: What I am trying to get at, for instance, if a landlord were going to go for extraordinary operating, which right now under Bill 4 is all he would be allowed to go for above the guideline, the first amount would be the rent. The second amount is your rent increase. Now if it was just statutory it would only be \$25.

Ms Parrish: That is right.

Ms Poole: But if the landlord has applied for extraordinary operating—

Ms Parrish: Then they have to use form 2. Form 1 is only if your rent increase does not need Ministry of Housing approval or if you have already had your approval.

Ms Poole: Ah.

Ms Parrish: Or you are moving to maximum rent.

Ms Poole: Okay. I am actually looking at form 2.

Ms Parrish: You would have to go to form 2 to give the information that you have applied for additional rent increases.

Ms Poole: Okay.

Ms Parrish: And there is a little box there that says, "I have made an application for the new rental period" and I want X, which would be more than the guideline increase. Form 1 is only if you are moving to maximum rent or if you are putting in something you have already gotten, for example phase-in, or guideline.

Ms Poole: I apologize for the confusion, because I did not tell you I was looking at form 2.

Ms Parrish: Okay.

Ms Poole: So my question then on the form 2 is, that second space there, which is the new rent increase, would that include the guideline plus, say, the extraordinary operating?

Ms Parrish: That is my understanding. Yes.

Ms Poole: So should this not say, "Your rent increase, if approved, will be"? I am just concerned that they think they have to pay that right now.

Ms Parrish: I see what you mean. Although there are some sort of notes here, it does not make it completely clear, in your view, that—

Ms Poole: That they might not have to pay this.

Ms Parrish: That this is precative; that is, that is what the landlord wants.

Ms Poole: Yes, exactly. In item 2 it says, "Your rent increase is," as though, like, this is the gospel, "Ladies and gentlemen, this is what you will have to pay." But if the landlord has not been to rent review and does not know they are going to get the extraordinary operating, then we might have a problem in that tenants will automatically pay that amount, not realizing that the landlord might not be entitled to it. Do you see what I mean? I am just saying, "Your rent increase, if approved, will be," so that they will know that it still has to be approved.

Ms Parrish: Right. Yes. And that would sort of tie in to these notes at the bottom that say you cannot review before there is a decision, and if you do not know, phone us and so on.

Ms Poole: That is right, because a lot of calls to my office, come from tenants who do not know what they have to pay, and we always say: "You have to pay the guideline. This is the amount you have to pay. But if the landlord wins his application, you'll have to pay this much extra, so try to put it away in a bank account so you'll have it ready if the landlord wins." So I can see tenants looking at that and saying, "Oh, I have to pay this," when the landlord has not actually received approval for that increase. And it might not also be a bad idea—and I am looking to see if this is on here—to tell the tenant what he is required to pay as of the date of his rent increase if it has not received Ministry of Housing approval.

Ms Parrish: So you are saying in essence that you should say to the individual, "You must pay this 5%"—we will make it easy for the mathematics—"You must pay the \$25." However, if I want another 5%, you do not have to pay that until it is approved.

Ms Poole: That is right. I do not know if that is helpful to you

Ms Parrish: It is a good point.

Ms Poole: I think it is important for tenants to know that that is not set in stone and it should be, "Your rent increase, if approved, will be," and to also tell them in dollar amounts what they should pay automatically and what they have to wait for the approval to pay.

Ms Parrish: There is some room on this form. We could, for example, put in some additional material here, like, "I am proposing to increase your rent," and then next to the guideline we could put in something about, "This is the part you must pay now, the other part is the part under application" sort of thing.

Ms Poole: That would be very helpful. Otherwise you will find tenants confused as to what they do and do not have to pay.

That is my only comment. Otherwise, I think these forms are definitely an improvement over what is being used right now. They are much simpler and I do like the format. It may not be a bad idea, before you do finalize it to have some real tenants out there sit down, fill one out for them and say, "What does this mean to you," and see if they can explain it. If they can, you will know you have really gotten all the glitches out of it. That is my only comment.

The Vice-Chair: Are there further questions, comments or amendments to section 2? Seeing none, is it the pleasure of the committee that section 2 carry?

Section 2 agreed to.

Section 8:

The Vice-Chair: The next section, then, 100b, parliamentary assistant?

Ms Harrington: This section provides that part VI-A applies to all rent increases on or after 1 October 1990 and that part VI, which governs rent increases prior to that date, does not apply except in specific cases. Part VI-A does not apply to rent increases proposed in an application or set out in a notice of phase-in or in an order that has been issued by the minister, the hearings board or the court with a first effective date prior to 1 October 1990.

The Acting Chair (Mr Miclash): Questions or comments?

Ms Poole: The Liberal caucus has offered an amendment to subsections 100b(1) and (2). While members are looking at this motion, I wondered if I could have the indulgence of the committee for five minutes. I have just been asked to call my office urgently, and hopefully I can deal with it very quickly, but since we do have an amendment to this section I did not want to leave, so I am just requesting a five-minute adjournment.

The Acting Chair: Do we have permission to take a recess? Okay? The committee is recessed for five minutes.

The committee recessed at 1501.

1511

The Acting Chair: Ladies and gentlemen, if I can reconvene.

Ms Poole: Mr Chair, I think when we left off you were calling for comments, questions or amendments. The Liberal caucus does have an amendment to this section and I do not know if you feel this is the appropriate time to make it or if you would like general discussion prior to my making the amendment.

The Acting Chair: I guess maybe we will go on to general discussion, please.

Mr Tilson: I would like to ask Ms Harrington, as the parliamentary assistant: We have had an amazing amount of dialogue from people around this province as to the detrimental effect of the retroactive portion of this bill. We have had both landlords and tenants indicate to us the terrible effect it is going to have on the economy of this province. We have had landlords sit before us in this very room and weep, literally weep as to the terrible effect it is going to have on their lives and their families, people who

have worked hard all their lives, who have played by the rules, who have played by the rules set up by the government of the province of Ontario and who have expressed their lack of confidence in the government of the province of Ontario.

It does not matter whether you are Conservative or New Democrat or Liberal, rules are set by governments to be followed and they are not set to be changed in mid-stream. And governments that come to power, for whatever reason, must realize that, because to have sound government you must play by the rules. Otherwise there would be anarchy, and that is what these people are saying, and they are people from all walks of life. They are small landlords, they are large land owners.

It is mainly the small landlords who are going to be seriously affected by this. It would be very easy for me to review the statements that have been made by different people who have come to us right across the province. I will not do that, because certainly you have been one of the members of the government, of the New Democratic Party, who has been present almost at all of these hearings. In fact I think you have been present at every one of them, the public hearings, and you have heard all these people. I have watched you. I have watched you particularly as to how you react to these people who literally come and break down as to how it is affecting their lives, and in turn saying how it is going to affect the tenants of the province, how it is going to affect their way of life, and in fact producing facts.

Having heard all of that testimony, have you changed your mind as to whether or not the government, the New Democratic Party government, should choose the effective date of 1 October 1990?

Ms Harrington: What an extremely perceptive and difficult question. But let's look at it clearly. This government was elected and has a mandate and that is exactly what we are doing, following what we believe have to be changes in the RRRA. And of course we have to live or die by what we do. That is a reality of politics and we have to accept that, and we all do. We cannot please everybody; I am sure you know that.

We have heard some very heart-rending stories, there is no denying that, and it has been difficult, but this legislation I believe is good legislation, and this is why we are going ahead with it. It is a moratorium, and I do not think we have to go back through everything that we had said or heard over the last month.

But the other comment I would like to make is that, if you would like a direct response from the minister, since he was not actually present, as you and I were, to hear all of the testimony, I would not mind if you did want to defer this till tomorrow if you wanted to speak to him more directly about how you feel.

Mr Tilson: I am asking you as a member of this government, Mrs Harrington. I am asking you as the—and I do not mean to offend the New Democratic members of the government who sit in this committee, but you are perceived, at least, in that you happen to be the parliamentary assistant to the minister, to be a leader from the government

side, the New Democratic Party side, in this committee. Whether you are that in fact, you are perceived as that, and I respect you for that and I have respected some of your comments and I certainly understand.

You are saying that there are tenants who are suffering in this province, and all parties have said that. We have all made those comments, we have all seen testimony given to this hearing where tenants are suffering, and I say that because as that leader in this committee, at least from the New Democratic Party, I think it is incumbent upon you to show that leadership and to relate the effect that testimony has had on you—hopefully it has had effect; you seem to be a person it would have an effect on—and you will not simply look at it as tenant legislation.

I can say that our party looks at this legislation as a problem that affects all sectors of our society. Housing, as we have repeatedly said over and over, is like food, shelter, housing; it is in that category. It is something that we all look at. It is something that gives us great concern.

When we have landlords telling us the testimony that they have and listing off how it is spread out beyond just the landlord to the worker who is going to lose his job, to the tenant whose quality of life is going to be affected, these are facts. These statements that have been made by these landlords are not philosophical dogmas of the Liberal Party, the New Democratic Party, the Conservative Party; these are facts that have been presented to this committee.

Looking at that, I asked whether you had considered—and there is no question the New Democratic Party has expressed their interest to help tenants. In fact, the Minister of Housing has said that he does not represent the landlords, he represents the tenants of this province. I find it astounding for a minister of the crown to take that position. I do not think you would take that position. I am looking for you to contradict me. You know, I would like you to contradict me.

1520

Ms Harrington: I did not say it was tenant legislation. My view is that this is legislation for the benefit of all of Ontario. It is a moratorium so that we can put in place a new system in this province. As I said, that was the minister's statement, and if you want to get his response, I cannot answer what his response would be.

Mr Tilson: I understand your rationale in developing the moratorium. I disagree with it, I disagree with the approach, but that is irrelevant at this point because we do not have the votes. However, we do have the right to speak and we do have the right to emphasize to you facts that have been presented to this committee.

Having said that your government is representing all aspects throughout the province of Ontario, all people throughout the province of Ontario, and I hope that you do, and having listened to the fact—and it is just not isolated facts of landlords that are being forced into bankruptcy—would you therefore consider changing this retroactive aspect of the legislation in light of the facts that have come to you and other members of this committee in these hearings?

Ms Harrington: From the facts that have come to us—there is no sense in going back over all of them—we understand clearly that there are facts with regard to, as

you say, landlords and workers and a lot of different people affected in Ontario. That is why we had the hearings. We wanted to know what the effects were and how people felt. We do know that and we have to, as you say, take the consequences of doing the best, making some decisions, and what we want to do is put this in place and then, as the minister clearly said yesterday, look to the rest of the people in Ontario, like the landlords and other people, to try to improve a system. We are clearly open to a lot of options and decisions have not been made on that. A decision has been made on the part of our party and our government that this legislation is appropriate at this time.

Mr Tilson: If I could continue, it is regrettable that you will not reconsider your position, having heard the terrible facts that have been presented to this committee. I would therefore like you to elaborate, on behalf of the government, your rationale for choosing this retroactive date of 1 October 1990, specifically when it involves orders when notices must be given 90 days prior to orders being given, so that effectively the retroactive aspect of this legislation, in most cases, is not 1 October 1990 but 1 July 1990. I would like you to give your government's rationale.

Ms Harrington: I would like to point out, for instance, if we chose, say, the date of 28 November 1990 for the filing of applications as the cutoff date, the earliest rent increase that would be affected by Bill 4 would then be 1 March 1991, so rent increases under the old system would continue right through until 1 March, and we did not feel that that would be acceptable.

Mr Tilson: Is it possible, Mrs Harrington, that if the Bill 4 change is passed without amendment, this government could change the rules again in midstream and say, "Well, we found that was a mistake, we're going to change the rules again"? I am just trying to determine your rationale.

Ms Harrington: I think it has been very clear. There has never been a New Democratic government in Ontario. One was elected with a mandate to look at the rent control situation, which has been the RRRRA for the last five years, which was a very poor system that needed immediate action, we felt, and people of Ontario, I think, understood that. What we have said very clearly to you and to everyone is that, as soon as possible, with as wide a consultation as possible, with this green paper that we have just released yesterday, we want to make a good system that will work.

In the whole rental system in Ontario there are many pieces, and a very important part of it is the private ownership rental market. We recognize that that has to be a system where there is a fair profit and that those people will be part of the system and will make a fair profit.

So that is the message we are sending out and I think that message is fairly clear.

Mr Tilson: Well, I hope that the government will keep an open mind on this subject. It sounded when I first asked the question about changing your mind that I was trying to ask a trick question, and I was not. I was asking the question because if all these landlords who have come before us, if facts, further facts, are produced to this government that indeed show these landlords and others, other families and children and the people who work for these landlords,

are going to be put into bankruptcy or affected financially I hope that the government would change the rules again.

I say that because obviously I do not think these landlords who have come to us are kidding. I do not think they are lying to us. I do not think they are making it up. There are too many of them to be making it up. And I would hope that before we all vote on this, no matter what the decision of this committee is, you will all take a long, hard look at that before we vote on this bill in the House, because it is quite clear to everyone, no matter what party you are in, that there are a number of people who, as a result of this legislation, are going to be bankrupt, who are going to be literally destroyed because of a government that is determined to enforce a dogma that is not going to work.

Mr Turnbull: Mrs Harrington, unfortunately what I have to say will be very repetitive of what Mr Tilson said. I do not believe that there is anybody around this table who has any thought other than the fact that we want to ensure that people are properly housed, that there is an availability of housing, that it is affordable and that it is safe and clean. I do not believe any party has any other view, and I will defend to the hilt—and believe it or not, I have in fact defended your government with people who have spoken to me about your right to pass laws, because you have been elected. You were elected with approximately 23% of the eligible voters and 37% of the popular vote that was cast, but I will defend to the hilt your ability and your right to govern with a majority.

However, there is the problem here that you are passing retroactive legislation, and we have heard a lot of testimony—and I am sorry that this is so repetitive of what Mr Tilson has said, but it goes to the heart of what our party objects to in this legislation, and it is the fact that your members refuse to ask for expert testimony from a representative of the Trust Companies Association of Canada as to the likely effect it would have on landlords, and specifically small landlords.

I recall having a discussion with you, Mrs Harrington, and I subsequently said I would not discuss this in public because it was a private discussion, and you said, "No, no; that's fine," and I admire you for the fact that within minutes of us having that second discussion you put it on the record that you had considered buying an apartment building with your husband, out of your life savings, as I understand it. I admire the upfront way that you do things.

1530

But there is no doubt about it that small landlords who have bought their buildings within the framework of the law, a framework which, while it may be flawed—and in fact I have told you on several occasions I believe that the existing legislation was flawed—nevertheless it was the law, and ultimately, if we cannot rely on the law, what can we rely on?

It would be utterly repugnant to me if, when your government is eventually defeated—and I would hope there is no government in Canada that is smug enough, of any party, to think that it cannot and will not be defeated—a subsequent government were to retroactively change rental

legislation and say, "Oh, it was wrong," and the tenants had to pay thousands and thousands of dollars back because this legislation was retroactively cancelled. I want you to think about it in that light. It is not the way we govern.

It is of so much importance to landlords, particularly small landlords, that they have been on the phone to me saying: "Please, what should I do? The bank is contacting me. They are wanting the finances to be rearranged. What do I do?" And I have had to say to them: "Hold on. Let us look at what the permanent legislation is."

But within the discussion paper, it impressed me, the fact that this discussion paper clearly recognizes the fact that we have up to \$7 billion worth of repairs that are going to be needed by the year 2000 to our rental stock. We have seen that on average about 17% of household income is required to pay for rental accommodation in this province. That is a statistic from CMHC. We have seen that 0.006% of all of the rental stock has had these excessively high increases, and we have also seen some expert testimony that in fact it was based typically on very, very low base rents.

When you consider all of that, that the discussion talks about the need for a vehicle—let's call it a vehicle—to pass through the cost of these repairs, does it not seem reasonable that we should address this question of retroactivity, a question which we know there are suggestions of being unconstitutional? We will not know that until it is tested at court. The landlords' association asked you to refer it to the courts before passage of this legislation, which I would urge you to do, but more than that, if you do not do that, they are going to challenge it in the courts. Surely when we rely on the democratic process and the rule of courts, we should absolutely consider the message that we send if you do not get rid of the retroactive aspect of this legislation.

Ms Harrington: I am sorry. I did not hear your last sentence because I was asking—

Mr Turnbull: I was just saying, unless you get rid of the retroactive aspect of this legislation, we are just going to face so many bankruptcies of small landlords and it is their life savings. Do you not think it is appropriate for you to remove that aspect? You will find, I suspect, from this side of the table unanimity, that you will get success in passing the rest of your bill if you will remove the retroactive aspect of your legislation. Will you do that?

Ms Harrington: There has been a lot of discussion with regard to the retroactivity and the legality of it. There are staff who have looked at it in some detail. I would like to ask one of them to just comment on the technicalities of it for me.

Ms Parrish: I would point out that it is not the practice to refer all legislation through the courts to have it constitutionally tested because it is a very long period of time that it would take to have it referred. I should say that the issue of the constitutionality of this bill has been considered by staff, has been referred to the Attorney General; the bill has been through all of the normal mechanisms of government.

I would point out that the constitutionality of the previous statute, the RRRA, was in fact also challenged by a landlord in a case called *R. v Haddock* and the issue of the constitutionality of the previous statute, which had some retrospective elements, was also dealt with. The courts ruled quite conclusively in that case that it was not unconstitutional.

So it is not as if this is an untried area of the law. Normally cases only get a constitutional reference where you really are dealing with a situation where there is not a body of previous case law.

I can understand other kinds of objections. I am really only speaking to the issue of the constitutional review of the bill itself.

I should also point out that—and I have to say that I am a lawyer, so I can say this—lawyers have all these sort of technical distinctions which are sort of tedious, but there is a distinction in law between a bill which is retroactive and retrospective, and Bill 4 is a retrospective bill, not a retroactive bill.

Mr Turnbull: I would ask that we have that legal opinion tabled with this committee, Mr Chair.

The Acting Chair: Yes, if you so wish it to be tabled.

Ms Parrish: May I speak to that issue?

The Acting Chair: Yes.

Ms Parrish: You can appreciate that we are in an awkward position as staff, because there has been an indication that there will be litigation in this area, so you can appreciate we are in a difficult position in terms of our client. This is not a situation where there is no threatened litigation, there is litigation involved here. So the question is, should we be essentially disclosing our case to the public in this situation? I guess it is difficult, because we do not know what kind of case will come forward, we only know essentially what we read in the papers or we hear from the committee deputants.

Mr Turnbull: It seems to me that since it is public funds that were expended on this, it should be available to the public and certainly to this committee. Perhaps in light of what you are saying, if you will not table it, I would suggest that this—first of all, I would ask you that you table it, and if you do not table it, I would ask that this committee get its own legal advice.

The Acting Chair: Mr Turnbull, just a clarification; you are asking for the document to be tabled?

Mr Turnbull: Yes.

The Acting Chair: Okay.

Ms Harrington: Which document does he want tabled?

The Acting Chair: Which document is that, Mr Turnbull?

Mr Turnbull: The legal opinion that the ministry is in receipt of as to the constitutionality of the retroactive aspect.

Mr Drainville: I just want to respond to that. It is always a little bit of a difficulty, I think, when we put ministry staff in the position that I think we are just about to put this staff person in. You asked a particular question, Mr Turnbull. I think the ministry staff did their best to

respond to you and respond to the question that you were raising.

I think that the caution the ministry staff person has put to the committee is one that needs to be very seriously considered. There is an indication of litigation coming. I do not think it is appropriate that we get into a situation in which the staff has both to provide us with information and to do the work that they have to do as ministry staff.

I think that both of your requests go far beyond what is necessary at this time and I think that the member of the ministry staff has made their determination clear. You asked how the ministry dealt with it. She has indicated how they have dealt with it. You have seen the legislation as it is drafted. You have heard from the parliamentary assistant why the government is taking the position that it is taking. I think that this is all within the bounds of reasonable discourse and response and I think that the two requests you have just made are beyond reasonableness.

Mr Brown: Just on this point, I agree with Mr Turnbull that the legal opinion should be tabled. I also agree with Mr Drainville that we should not have the ministry staff in this position. The question here is not to ministry staff whether they want the legal opinion placed before this committee and placed in public. The question is whether the government wants that to happen. The question therefore is more properly addressed to Mrs Harrington, who is here as the parliamentary assistant to the minister and who is here representing the Ministry of Housing. It is the government that has to make this decision, not staff, and I fully concur with that.

I think, with a government that was elected talking about being open, being accessible, that it is passing strange that it would not allow a legal opinion that we have, apparently, within the ministry somewhere, to be tabled at this committee.

Much discussion has gone on through these hearings about the legality of this particular section of the bill. We have had landlord groups clearly indicate that there will be litigation. We have the government assure us that: "No, no, not a problem; this is legal. This is fine." But the committee has had no opportunity itself to examine those legal issues.

1540

It would seem to me that the parliamentary assistant has the ability to make that commitment to this committee. Otherwise we are in the unfortunate position of retaining legal counsel ourselves to determine that, or should be, if we are doing our jobs as members of this Legislature.

I see no reason for not having the opinion in the open. Clearly we are not trying to hide anything from the people of Ontario. And I would go back and caution the Ministry of Housing that the same lawyers are in the Ministry of Housing now as were before; the government has the same legal staff as it had six or seven months ago, and I can tell you, I was once over there sitting smugly listening to how the—

Ms Poole: You smug? No.

Mr Brown: Yes. Say it's not so.

Ms Poole: It is not so.

Mr Brown: —listening to how the government's lawyers had determined various statutes to be totally legal, and we were shocked on more than one occasion when we found out the legal advice that we had retained did not hold up before the courts. So I just ask the parliamentary assistant, this is a political decision and not a staff decision and I support Mr Turnbull in asking that this be tabled.

Ms Harrington: As you know, and I think it was already stated, the normal caution—it has gone through the Attorney General's office and that is, as you were mentioning, what we normally rely on. Whether or not all the evidence that we have at the ministry should be tabled in this House, I think you would agree I would like to check with my minister first. If you would like me to report back on that tomorrow, I think that would be the earliest I could.

Ms Poole: My understanding is that the minister will be joining us tomorrow. So since Mrs Harrington has asked for time to consider this, perhaps we can put the question to the minister tomorrow.

The Acting Chair: Okay. Back to the regular discussion. Mr Brown, you were next on the list.

Mr Brown: Is Mr Turnbull finished?

The Acting Chair: Are you finished on that point, Mr Turnbull?

Mr Turnbull: I would just like to put you on notice at this time that if the minister is not prepared to table it, I would like to put forward a motion tomorrow requesting this.

The Acting Chair: That will be tomorrow then?

Mr Turnbull: Thank you.

The Acting Chair: Mr Tilson?

Mr Tilson: Mrs Harrington, when you are discussing this with the minister, and I assume you will be before he arrives, the mandate of this committee is to obtain as much information as is within its bounds. We are looking at tax information, we are looking at all kinds of facts and professional opinions to assist us. We are having Mr Thom come tonight, who will provide us with some thoughts, professional thoughts. A legal opinion is no different from any other advice.

I appreciate that one can say that litigation is pending, and maybe it is, maybe it is not. We have had a landlords' group that says it is going to institute legal proceedings. Maybe they will, maybe they will not.

Our job, the job of this committee, is to advise the Legislature. If we have not got information, if we have not got legal information, we go out and find it. In other words, if this bill is legally unconstitutional or if there is something wrong with it, I think the mandate of this committee is to determine whether or not it is unconstitutional, whether in our opinion it is unconstitutional, not what some landlords' group thinks or some tenants' group thinks, or indeed whatever even the Minister of Housing thinks. This is an independent committee, and this committee is to advise the Legislature, and I think it is a reasonable position for this committee to report on the legality of this bill. It has been raised, a legitimate argument has been raised, and I would ask that you and the

minister review that very carefully before you come in and refuse, which has been hinted, at least, by other members, that this information would not be forthcoming. So I do hope that you consider that, as you do all other information, such as the tax information.

Mr Mammoliti: On a point of order, Mr Chair: I am just curious as to what all of this has to do with subsection 100b(1). I think we have strayed off that particular item and we are talking about the whole bill here. I think that we should concentrate on 100b(1) and deal with that.

The Acting Chair: Mr Mammoliti, they are dealing with the retroactivity of the bill, and I believe that section does cover it. This is what we are discussing at the present time.

Mr Mammoliti: Well, again on my point of order, it was mentioned that the whole bill at points was being discussed and not specific to 100b(1). So I would suggest that we target our discussion around 100b(1) as opposed to the whole bill, and that is what has been happening.

The Acting Chair: Okay. I just might remind the members that we are discussing that particular section, subsection 100b(1), and I believe, Mr Turnbull, last comment on this portion, and then we will go on to Mr Brown.

Mr Turnbull: I will defer my comments at this moment.

Mr Brown: I have sat here for three weeks of public hearings, and nothing that I have heard has moved me so much as the testimony on this particular section of the bill. I think we all agree that tenants need protection, that tenants have had some problems with the previous legislation, and improvements need to be made. That is not a question. What is a question is this retroactivity. I think our party has offered a number of amendments which we think will improve the bill, but at least in my view, this part of the bill, this retroactivity that we know in some cases reaches back as far as three years, is, if nothing else, repugnant.

I have sat here and watched witnesses over there break down and cry. The Chairman had to ask for two recesses while men cry because they are losing their life savings, witnesses who have come to Canada 20, 25 years ago from other countries, have contributed to this nation, contributed to this province, and indeed contributed to this city. They have come here to do that. They have not had pension plans as most Ontarians do. They did not have high-paying jobs. But they worked hard and they raised their families, and they maybe guessed wrong. They put their money into real estate. They put their money into providing rental accommodation for the people of Ontario, providing a place to live for people in this province. And for them to have abided by and gone out and got legal orders—and, if I recall, in that particular instance, even with the approval of their tenants to have this work done and have the cost passed through—it just seems to me to be beyond natural justice.

Whether it is legal or whether it is not, I would question the morality of a government that would reach into a person's savings, and whether it is in a bank account or in a building, that is what it is. And those people, according to them—and I have no reason to disbelieve them; perhaps

the government does, but I do not know why anyone would disbelieve these people—are saying to us, "We will be ruined." The gentleman said: "What am I going to tell my son? What will I leave my son?"

Certainly no member of this committee could sit here over the three-week period and not realize that these are real people. They are not rich people. They do not drive in limousines. They do not live in fancy condo units. They do not have big houses in expensive parts of the city. They are the real people of Ontario, the people who built Ontario. And to have a government say, "We cannot allow you to have the same rights as other Ontarians," is beyond me.

Just for something to do—and I did not really want to be particularly partisan about it, although I probably will be later on—I thought I would get out the Agenda for People. I thought I would look at the Agenda for People. I see the smiles over there. You are wishing they were all shredded, I am sure. What does the Agenda for People say about rent control? Well, it said:

1550

"New Democrats would bring in rent control. That means one increase a year based on inflation. There would be no extra bonuses to landlords for capital or financing costs. It's simple, it's fair, and it avoids the bureaucracy which has frustrated both tenants and landlords."

That is what it said. It said nothing about reaching back three years. It said nothing about reaching back two years. That was your platform. That is what you told the people of Ontario and that is what tenants and landlords were led to believe you would do. It said nothing about expropriating property retroactively, and that is really what you are doing, and I find that to be repugnant.

I, like everyone else, realize the realities of 6 September. You are the government. You can do what you want, and should do what your policies were. You should take the Agenda for People and implement it, because that is what the people of Ontario did. They elected a government that made specific promises and the people of Ontario have a right to believe that those specific promises will be kept. That is what they did and that is what they should expect.

But they should not expect this. They should not expect that people will lose their life savings. They should not expect that people will be bankrupt. They should not expect that, and I do not understand that. I really do not.

The rest of the bill we can think about and try to improve, but this part comes right to the crux of what we are all about in Ontario, what we are all about as Canadians. It is about fairness. It is about justice.

I just ask Ms Harrington and the members on the other side—you were here, too. You heard those people. I have no reason to believe that you question their credibility. Would you not say—be honest. Do not be the trained seals. Go back to the minister and say to the minister: "Minister, we can't do this. We've been out there. We didn't realize the ramifications when this bill was put forward. We didn't know that." Nobody could know that until we went through the public hearings. That is why we had public hearings. Go back and say to the minister, "Yes, let's go on with this bill if we must"—and you must think it is a good idea, so I presume you will go ahead with the

bill—"but we can't live with this clause." It is just not right on a very basic level, and I do not think any Ontarian would believe that this is the right thing to do. It just is not.

The Acting Chair Mrs Poole? I am sorry, go ahead.

Mr Drainville: Just on a point of order, I put my hand up a long time ago, Mr Chair.

The Acting Chair: I am going on a basis of when people are recognized. Did you put your hand up after Ms Poole was recognized?

Mr Drainville: Fine; it was after that. That is fine.

The Acting Chair: Go ahead, Ms Poole.

Ms Poole: The Chair actually just sent me four Glossette raisins because I was first on the list and somehow got lost in the shuffle, so perhaps, Mr Drainville, you would like to apply for the same remedy.

Interjection: Give him five.

Mr Mammoliti: You get the whole box.

The Acting Chair: Go ahead, Ms Poole.

Ms Poole: I am not going to talk about the constitutionality, which to a certain extent is going to be beyond our control, but I am going to talk to you about two issues which concern me relating to the retroactivity. Those are fairness and trust in government.

The retroactivity, as all members have heard, goes back far further than the date of 1 October 1990, which many people believe is the retroactive date. Mr Tilson mentioned 1 July 1990 being the date of applications, but in fact, as we have heard, a landlord actually has to substantively complete renovations and repairs prior to even applying, so we are talking legislation relating to capital improvements that actually go back to the spring of 1990 and indeed the fall of 1989.

I know that members of the government have said to people, "Well, this is the risk you took, it was a bad investment." But I would say to you that these people followed the laws of Ontario, and surely there has to be a recognition on this committee and a recognition by us as legislators that we of all people must believe that the government of Ontario is the government of Ontario, be it Conservative, Liberal, NDP; that people have to trust in us as government. I am afraid that there are going to be many people who no longer trust government because of the effects of this retroactivity.

Some of you may remember the small landlords who came to our committee, a number of whom broke down and cried, and, as Mr Brown was, I was also very deeply moved by what happened and I know members of the government were. I watched Mrs Harrington's face and several times I thought she was going to cry. I think we are all trying to grapple with that, people who were saying that they would be forced into bankruptcy, lose their life savings, their retirement money, and it was moving.

But I would also say to you that if you believe in tenant protection, you will think twice about this retroactivity.

I do not know if any of you have ever had a building in your riding where the landlord has gone bankrupt. I do. That building has been in receivership for several years, and it is nothing but headache after headache. We have had

to intervene with the city of Toronto to get the heat turned back on, to get the hydro reinstated, we have had to intervene—in fact right now we are intervening with the Ministry of Consumer and Commercial Relations to try to get elevator service restored. We have seniors in that building walking up and down flights of stairs, which they are ill-equipped to do, because there is nobody to take control of the situation.

So yes, the bankruptcy is particularly going to affect the small landlords, but it is ultimately also going to affect the tenants, and that is something we also do not want to see.

I know the point has been made a number of times by the parliamentary assistant that all pieces of legislation, and rent review legislation in particular, have had elements of retroactivity, and that is obviously true. But there is a great deal of difference between retroactive legislation which has notice, retroactive legislation which grandfathered—and for any who are unfamiliar with that phrase, it is one we use legislatively to talk about buffering people who were caught in the system prior to the legislative change to ensure that there is as little instability as possible and as few people as possible suffer from the legislation. That is what I see missing in this. I see both notice and grandfathering as missing elements.

We have had a number of tenant groups that have come before us and said that they think that the retroactivity is unfair. I received just the other day a copy of a petition by 56 tenants in Hamilton where they have signed the petition saying that this is unfair. Their landlord came to them, their landlord consulted, did the necessary repairs with their goodwill and their blessings, and they think it is unfair that their landlord is now facing bankruptcy.

We heard from the Bretton Place Tenants' Association, which actually held a press conference about some of the inequities they saw in Bill 4, including the retroactivity. Right before us we had the president of the Graydon Hall Tenants' Association, together with a group of tenant associations from North York, and when we asked the question, "Do you feel the retroactivity is unfair," they said, "Yes, this is unfair and we disagree with it totally." We had Martin Connell, who made a presentation on behalf of a tenant association which I believe was in the west end of Toronto. Again the question was put, "What about the retroactivity?" "Unfair."

So do not think that every tenant out there is going to believe your words when you say it was necessary. Many people, tenants or otherwise, feel that it goes beyond the bounds of decency and fairness and balance.

1600

I would like to draw your attention to one other point. In the long-term consultation paper, one of the options for dealing with the transition period is to apply any new approach to capital work done before the new rent control act was in place, provided no other rent increase had been obtained for the work. When I talked to the minister he said this as a justification. This was a conversation we had several months ago in the House. I said, "What about these people who are going bankrupt?" And he said, "Well, we're seriously considering putting a new provision in the

long-term solution where they could reapply as long as they had not received a rent increase for it, but they would have to reapply under the new rules."

But, I mean, bankrupt is bankrupt. These people are going to be put in a position, many of them, where they will go to their bank for refinancing and they are not going to get it. They have put up their homes as collateral. So what are you going to do, say to them afterwards, "Well, you've given up your home, you've lost your savings, you're bankrupt, you've put yourself in a position where the financial institution has come in and taken over the building; but it's okay, now we're going to allow you to apply?"

And what are the tenants going to feel? They are going to say, "You mean retroactively you're now going to say two years after the fact that you're going to allow them to apply for capital improvements they made in 1989 and 1990?"

I just have a lot of problem with this retroactivity, and I have been a tenant advocate for many years and I will continue to be so. I think you will find that many of the amendments I have fostered and put before the committee are in the tenant vein. But this one I do not see as good for the small landlords in particular. Many of the large ones will be able to weather it. They will not like it, they will lose money, but they will be able to survive. Many of the small landlords, I put to you, will not.

When we were in Ottawa, I had statistics from the housing authorities in Ottawa which showed that out of 41,000 landlords in their area, 39,500 of them were small landlords, so we are talking about a significant number of people who are going to be disastrously affected.

From the comments that the parliamentary assistant made earlier in this discussion today, I am led to believe that they are not reconsidering their position on this retroactivity. I am disturbed by it, because it puts me in the awkward position that at the end of the day we as a Liberal caucus will have to consider our support for this bill. And unlike the Conservatives, I do not have a problem with the principle, I do not even have a problem with the moratorium, but I think there have to be provisions such that the moratorium does not disastrously affect our housing stock, does not affect the stability of the market and does not affect tenants and landlords in an adverse way. So you are putting myself, I guess, in particular as a tenant advocate, but certainly the whole Liberal caucus, in the position of reconsidering our support for this bill on third reading.

We supported it because we believed that the bill could be made fair, it could be made reasonable and there could be adjustments and amendments made that we could all live with. The retroactivity is one of the three major parts of our amendments, and I hope that you as government members are not going to put us in that position that we have to make that decision, to deny support for this bill because of it.

I think everybody has a copy of the amendment which I have had tabled with the committee. I would suggest, since this is quite a substantial section of the bill and goes to the heart of the bill, that we would stand this down until tomorrow morning when the minister is here. I would like

his comments on it, particularly relating to the rationale for choosing 1 October, particularly relating to suggestions in the long-term consultation paper as to how he eventually plans to remedy the situation, and perhaps to give him a chance to rethink this issue. I would hope that we could reach consensus on it. There will be no ideal solution and no ideal way—

The minister has just appeared.

Mr Tilson: Speak of the devil.

Ms Poole: In the spirit of conciliation, I will not echo Mr Tilson's comment. I certainly would never call the minister the devil—maybe Minister of Slums and other equally nasty names, but not the devil.

Perhaps instead of standing down this matter, now that we have the minister here we can continue the discussion.

Mr Chair, would it be appropriate for perhaps just a two-minute recess to give the parliamentary assistant an opportunity to brief the minister so he can get settled?

The Acting Chair: Concurrence? I am sorry, Mr Mammoliti?

Mr Mammoliti: We are still going to get an opportunity to speak, are we not?

The Acting Chair: Yes, we are. Two-minute recess.

The committee recessed at 1606.

1618

The Acting Chair: Seeing a quorum, I would like to call the committee back to order.

Members of the committee, at this time I would just like to welcome the minister, Mr Cooke, and move on. Mr Drainville, please.

Mr Drainville: Thank you, Mr Chair. I had a long response to the many speakers on the other side, who have said many things, but because the minister is here I will try to keep my comments in response brief.

I would say in response, certainly in terms of the small landlords and the issue around retroactivity, that we as members of the government side have not been unmoved when we have seen many of the things that have been said and done here at the committee. It must also be stated at the same time, and with equal firmness, that much of what has been said by the opposition members as regards retroactivity presents a one-sided picture, and that picture is indeed that landlords will suffer, particularly small landlords. I must say that perhaps some small landlords will.

But there is a larger picture here, and it is a picture that needs to be not only alluded to but delineated very clearly, and that is that there is a greater good involved, and the greater good is that tenants will benefit. It is important to make the statement very clearly that if we were to take another date for this bill to start up from—it has been suggested by some that 28 November would be an appropriate date—if we were to do that, it would cause its own problems and there would be more tenants who would be hit with very significant increases. It is always a difficult job to find how to be able to be fair to all people in that tension, and at times, particularly in the establishment of legislation, there are some people who are not going to

receive the full benefit of what we are doing. We hope that the majority will.

It also must be stated very clearly that in terms of the response of the members of the opposition, there were terms used that I must say are inflammatory to the discussion and this debate here at the committee; the word, for instance, "expropriation." This is not expropriation. To use that word is inflammatory. That is not what the government is intending in terms of this moratorium, and to use that word is just clearly not only unfair but inflammatory. Also, I will not even deign to comment on the "trained seals" portion of the comments.

On the issue that was raised on the unconstitutionality, again, I make the point that what we have done and what the ministry has done up to this point in time is to follow the procedures that the ministry is supposed to follow; that is, that the legislation is drafted, that it goes to the Attorney General's office, which ensures that the lawyers and those who craft the legislation have done the job that they are to do. To indicate that somehow the ministry has not done its job, that it is potentially unconstitutional, is conjecture on the part of those members. And they can conjecture all they want. The ministry has indicated it has done what it normally does in these situations, and of course we can question that, but I have to say as a member of the government that I want to affirm my support to the ministry staff in terms of ensuring that they have followed the procedures that are appropriate in this case.

So my last comment has, again, to do with the fact that Mr Turnbull, I believe, indicated in his remarks that it was some sort of heinous crime that a government would come to power and then set a bill that would be a retrospective, or "retroactive" is the word that was used. In fact, what we did was we went to the date 1 October and we chose that date—indeed we could have chosen any possible date, but we chose that date—because we felt it was appropriate. We came into power on that date, the ministers were sworn in to be ministers of the government on that date and it was an appropriate date to use.

I just want to put those remarks on the record, Mr Chairman.

Mr Mammoliti: I take particular offence to being called a trained seal.

Mr Brown: Honk, honk.

Mr Mammoliti: I think that Mr Drainville was being nice and trying to get around that. I take particular offence.

Ms Poole: On a point of order, Mr Chair: This is part of my agenda for being nice to George so that he is going to support my amendments. Remember that, George? I want to explain to you that this—

Mr Mammoliti: No, I do not, Dianne.

Ms Poole: —comment has a history, that in the last Parliament the members of the NDP quite often were prone to making Flipper-type noises.

Hon Mr Cooke: Not Flipper; Flipper is a dolphin.

The Acting Chair: Maybe we can get on with it, Mrs Poole.

Ms Poole: This conversation has degenerated, but it has been done before, so no insult was intended other than comparing you to my Liberal colleagues of years past. It is called revenge.

Mr Mammoliti: I take offence to being compared to your Liberal colleagues then.

We will get away from this for a minute and we will talk about the retroactivity for a minute and how I agree with you that it should not be 1 October, that it should be perhaps 1 July 1990. I will tell you why. I represent the riding of Yorkview, and to be honest with you 1 October is not good enough for the people in Yorkview. There are going to be a lot of tenants who are still going to be hurt with this particular piece of legislation, and right now they are asking me, "Why can't it be 1 July and not 1 October?" So I just want to get the point across to you that even though I sit across here and I say 1 October, I certainly would like to protect the residents of Yorkview as well. Half of them, I would say at least half of them, are going to be affected as well. They are going to have to appeal if they have not appealed already, and I am going to give them moral support anyway. It is important to relay that to you, I think.

It is unfortunate, but people are going to be affected in Yorkview, my riding. The ones who are not going to be affected—and we will go to go back to your thoughts—on 1 October, they are happy. They are happy that they will not be kicked out of their units because of the previous Liberal legislation—that is the way I like to refer to that, the previous Liberal legislation—that is forcing thousands of people out of their units.

Mr Brown: Oh, you have got no numbers George, not one.

Mr Mammoliti: Yes, we have heard from—

Mr Brown: Not one.

The Acting Chair: Mr Brown. Go ahead, Mammoliti.

Mr Drainville: Mr Chair, on a point of order: Just a while ago we sat through four speakers and said nothing and listened to those speakers. If the members here cannot be accorded the same—

The Acting Chair: Excuse me, Mr Drainville. I was bringing Mr Brown to order at the time. Go ahead, Mr Mammoliti.

Mr Mammoliti: I guess that is the seal in him, I do not know.

So we go back to what we have heard here. Yes, we have heard from landlords and, yes, a couple of them did break down and cry, but what the opposition seems to be neglecting to bring up is all of the tenants who have come in front of us. Representatives of these tenants, who represent thousands by the way, have come in front of us and said that they agree with the retroactivity and that if it were not for the retroactivity thousands of tenants would be forced out of their units. It is nice to talk about how many landlords have come in front of us and the couple who did start to cry, but please be fair and talk about the thousands of tenants who would be forced out of their units if it were not for the retroactivity.

So when my colleague Mr Drainville talked about the greater good, I think that is what he was referring to. Again, we are talking about thousands and thousands of tenants. It is important just to stress that the tenants of my riding are both going to be affected by and are going to enjoy 1 October as a retroactivity. It is my job as the MPP, I feel, to make them feel comfortable, give them the support that they need if they are appealing or if they are going to appeal any applications. I would strongly urge the opposition to do the same as well. Perhaps they should be giving some moral support to their constituents. Perhaps they should be attending appeal hearings for them and giving them that moral support instead of bashing a good piece of legislation that is going to be saving a lot more people than hurting.

The opposition also neglects to mention how many people have come in front of us and have talked about how if it were not for the retroactivity and how, if it were not for this piece of legislation, they would be out on the street, they would be in shelter homes, they would have to go to food banks. They have told us that. I have asked landlords that question on a number of occasions, landlords who have come to us and have said: "This piece of legislation is going to make me go broke. I'm going to be out of business." And I have asked, "Are you going to be forced to go to a food bank or a shelter home?" Nobody said, "Yes." Yet thousands of tenants are going to be forced into that predicament if it were not for this piece of legislation. I have asked that particular question on purpose for that reason. No landlords, not who have come in front of us anyway, have admitted that because of this legislation they are going to be going to a shelter or a food bank. Let's compare and let's see, let's determine how important this piece of legislation is and how fair it should be.

On that note I think I will close by just saying that I think it is only fair that the minister have a chance to say something in regard to this.

1630

The Acting Chair: Minister, did you wish to comment at this time or should we—

Hon Mr Cooke: I will at the appropriate time.

The Acting Chair: Good. Mr Brown, please?

Mr Brown: I am totally almost amazed. The member has continued to spout statistics and to say things that we on this side have asked for from the Ministry of Housing over and over again. We have asked: "What is economic eviction? How many people are affected? What are we talking about? If this bill goes through as it stands, how many people will not face economic eviction who would have otherwise?" We do not know the answer to that. We have numbers like, "Thousands." Quite conceivably there are, but there is no evidence whatever that there are thousands, and what we have asked for is the evidence.

Mr Mammoliti, in talking about this, forgets that the average rent increase in Ontario last year was 5.8%; that under rent review, where well under 20% of buildings or units went, they received rent increases of about 11%; and that there was a minuscule amount that had rent increases above that. And he may be right, but as we have pointed

out over here on various occasions, 25% to 30% of tenants cannot afford any increase in rent—zero, none—whether this bill goes through or not.

We tend to mix up two issues. One is affordability and one is rent control. Rent control does not necessarily protect those who need it the most in this society.

We on this side are just amazed that the government cannot produce the kind of numbers to justify what it talks about. They talk about flips and how much impact that has had, with virtually no solid information about that, and yet that is the reason for this bill. They have talked about unnecessary renovations and they will not define them. They talk about economic eviction. They will not tell us what that is about. What is the definition of economic eviction and how many people are affected by it and how many people will benefit by this bill and will not be economically evicted if this bill goes through?

What we are left with is a lot of rhetoric, high-sounding, but at the end of the day what do tenants want?

I think tenants want better maintenance. We have heard that over and over and over in this committee, and this committee has asked over and over again of the tenants' groups that have been before us, "How does this help maintenance?" They do not think it will help maintenance. They do not think their buildings will be better maintained. We have asked: "How does this increase choice? Is there going to be more units available? Is a tenant going to be able to move to a different unit?" Again, nobody seems to have any answers about that.

The benefit of this bill is clear. It restricts cost: cost of the commodity, cost of housing, cost of people's homes. That is what it does, and that is all that it does. Affordability is not necessarily the same thing.

Ms Poole: Just to follow up on a few of the comments my colleague made, I am concerned when Mr Mammoliti—and George, I will be very nice to you because I really do want your support—talks about the thousands of tenants who will be forced out, because a concern that I have about some of the tenants in my riding who are facing economic eviction is, we are not talking about not being able to afford the increases, they cannot afford where they are.

If I had been Minister of Housing, the very first thing I would have done, within weeks of taking office, was to increase the number of in situ placements. It is an opportunity we would have to say that tenants, in the building in which they live, can receive a subsidy right in that building, so they can continue to live in the place where they have lived for 20 years, to stay with their friends and live in the building, where many other people are not subsidized, but at the same time they would have that kind of protection. That is the first thing I would have done.

I have a real problem with this because I do not think that this is a solution. On the surface, yes, you have said to tenants, "We're going to restrict the rent increases," and many tenants are very pleased by that. But the tenants you are talking about who are going to be forced to food banks are not going to be forced to food banks if Bill 4 does not come in. Those are the ones who are going to have to go to food banks anyway because they cannot afford the rents

they are paying now. So it is a much larger problem and Bill 4 is not going to solve it.

What would solve it, as a starting point, like I say, is not only the provision of non-profit housing, which I am sure the minister and his staff are working on right now, but also the very easy solution of increasing the in situ placements.

You cannot look at any one piece of legislation in isolation and you cannot look at any one piece of legislation as the be-all and end-all. It is not perfect, and as I commented some months ago, there is no way we will end with a piece of perfect legislation. What we are trying to do is to get something that (a) is effective, (b) is fair and (c) makes sure there is stability in the housing market. If it cannot meet those three criteria, then I think we have got a serious problem.

So when we are looking at the retroactivity, I think we have to look beyond what some of us have been saying on both sides. You have to look at the whole picture and what is going to be the impact on the housing market.

I am really disappointed that the ministry had almost three months since this legislation has been announced and yet we have not had one statistic that has been supplied by them about the rent applications that are currently at rent review, that will be caught by the moratorium and will not go through. We do not have one statistic to show what the average of those rent increases was. Surely if you are going to take a position that this moratorium retroactivity date of 1 October for rent increases was necessary you should have the statistics to back it up, and we have not seen any of that. We have seen broad statements like, "Thousands of tenants will be forced out." Well, I would like something more substantial, not only done on the practical side of saying, "Let's do something really meaningful for those tenants", but I would also like to see how grave the problem is. To me that has not been shown.

Mr Mammoliti: You should have told the tenants when they were in front of us that.

Ms Poole: What?

Mr Mammoliti: That that is what you would like to see. They are the ones I was referring to, the ones who were in front of us.

The Acting Chair: Mr Mammoliti. Go ahead, Ms Poole.

Ms Poole: I do not know if you have any further speakers on this.

The Acting Chair: I do.

Ms Poole: Okay, when you have completed the roster of speakers, I would like to introduce the amendment. So I will sustain the rest of my comments until then.

1640

The Acting Chair: Thank you, Ms Poole. Mr Tilson, please.

Mr Tilson: Yes, a few remarks in response to some of the comments that have been made specifically by the New Democratic Party members of the committee.

We have just heard a statement that has been made today by Mr Drainville which, if that is where this govern-

ment is going, whether it is on rent control or anything else, we are in for a long, long time: the statement that greater is good, in other words, if numbers prevail. In other words, if you have got a piece of legislation that is going to favour a larger number of people to the detriment of a smaller number of people, then that is what you do, that is what you vote on.

In other words, the next thing we are going to hear is the New Democratic Party passing legislation against left-handed people. Of course, if you count up the left-handed people of the province of Ontario and the right-handed people of the province of Ontario, guess who is going to win. The right-handed people are going to win.

I think that is the mentality of the New Democratic Party, they are looking at numbers, they are looking at numbers of what they perceive is votes. In other words, as Mr Mahoney said the other day, I know it is scary—

Mr Turnbull: Do not quote him.

Ms Poole: Is this going to embarrass us?

Mr Tilson: No, no, I would not do that.

—it is not the Agenda for People, it is an agenda for power, in other words, whatever it takes to get into power. That is what their statement is.

I think the ironic part is, dealing specifically with the retroactive clause that is before us, if this is passed it is going to have an unbelievable detrimental affect on the tenants of this province, the very people that the New Democratic Party is claiming it is going to be saving, because we have had landlords coming before us who are saying they are going to go bankrupt, that they are going bankrupt; and those who are not, they are going to struggle through. There are two types of landlords, of course. There are the smaller landlords, many of whom have said they are going to go bankrupt. The larger ones have implied that they will survive but it will be difficult and it will affect the overall operation of the building, it will affect the overall maintenance of the building. Testimony after testimony has been given to that effect.

So, Mr Drainville, greater is not good. Hopefully, you will look at the small landlord, the small landlord that may have two, three, four, six units, 20 units. There is the small landlord that you should be looking at. You should be looking at all of the people of the province of Ontario, not just a select group.

I think that is why the Progressive Conservative Party is opposing this legislation, because we would hope that legislation would be put forward that affects the overall economic aspect of the province of Ontario and this does the exact opposite, it creates a detriment.

Looking specifically at Bill 4, this legislation will not improve the terrible, terrible living standards that have been referred to by the New Democratic Party and referred to by members of this party. There are terrible, terrible situations that people all across the province, mainly in the city of Toronto but certainly outside the city of Toronto, are living under. It will not solve that—in fact, quite the contrary.

We have had people come to us in these hearings who have stated that the quality of life will deteriorate under

Bill 4 because of the retroactive aspect, because they will not have the money to pay the conditional orders that had been made, to pay for the orders that have been granted, and if they do not go bankrupt it is going to affect their overall maintaining of the building.

Will people who say that they will enjoy 1 October, the 1 October retroactive aspect—in other words, at first glance, tenants will say, “Well, this is great, we are guaranteed things.” But they forget that those small landlords who are going to go bankrupt not only will affect all the people surrounding those landlords, the families of those people, the people who work for those landlords, the people who have jobs with those landlords, but it will affect those very tenants.

I am simply amazed that George would refer to an earlier date, 1 July. I mean, that is pure negligence on his part, specifically after he has heard all these people coming and saying to us how it is going to affect them. The comment has been made that tenants are going to food banks and that if Bill 4 is not passed, all of these individuals, a large number of individuals, will be going to food banks. George, would you give me facts on that? What facts do you have to substantiate those. I hope that you will put George on the list and allow him to give facts to substantiate that allegation as to the numbers of tenants who will be going to food banks. He has asked the question, “How many landlords will be going to food banks?” We do not have those facts either, but we certainly have a large number of facts.

Because of the retroactive aspect of this bill, we have a large number of landlords who have stated in these hearings that they will be going bankrupt, that they will not even be landlords any more. The tenants will continue, but the landlords will cease to exist. I think that is the answer to his question as to where the landlords are going to go if Bill 4 is implemented. Nowhere has anyone ever stated what is fair rent, what is affordable rent; those statements have never been clarified by this government.

Since the minister has returned to the hearings, I would like to direct a question specifically to him that I asked his parliamentary assistant in his absence, and that is, that if he has not been watching on television, I am sure members of his government have relayed to him, and I am sure he may have read Hansard or had it reviewed with him, the many, many landlords and individuals who have come to this hearing and have stated that because of the rules that they have followed, and that have been broken by this government, they are going to go bankrupt. They say that they have followed the rules, they have followed the procedures that have been set up by the province of Ontario.

These people have had faith in the province of Ontario. Many of them have stated that they have been here for 20 years or more. Many of them have come from other countries, and they have come to Canada, and the province of Ontario specifically, because this is a democratic province, they understand the process, they understand that a law is a law is a law and that it cannot be changed in midstream and that they would be given notice of any change. Yet this government has taken upon itself to change the rules in midstream. That question has been asked over and over by

landlords and by people who are affected by this retroactive legislation. Would you comment as to what the answer of this committee should be to those people?

Hon Mr Cooke: I appreciate the opportunity to respond. I might indicate to the Conservative critic that the choosing of a date in the legislation was extremely difficult. I am sure that it was just as difficult back a number of years ago when your government at the time was trying to choose a date for wage and price controls. The arguments, of course, at that time were that your government had retroactively ripped up thousands and thousands of collective agreements for ordinary workers in this province because it had come to the conclusion that there was a greater good, that there was a need to do this; supported, I might say, by the Liberal Party at the time. There were discussions about retroactivity in that particular case as well.

Ms Poole: Mr Chair, on a point of order: I would just like to clarify that the minister is speaking of the federal Conservative government.

1650

Hon Mr Cooke: There was legislation at the provincial level. The province of the day decided to opt in legislatively, which it had to do, and it was supported by your party. I am just making the point. I disagreed at that particular time, but a date had to be chosen and the province at the time had decided to make a decision based on the greater good. That is exactly what they did and that legislation was eventually put into place. The choosing of the date for this legislation was extremely difficult. Any particular date that we chose would have had difficulties with it. The date that you are suggesting in your amendment offers some particular difficulties. It does not meet the suggestions that have been made by small landlords and by Fair Rental—they have gone much further than that—and even with the choosing of the date that you are suggesting in your amendment, thousands more units would be passed through the system. There are already under Bill 4, as you know, 130,000 units that will go through the old system, so that a little more than 10% of the rental housing market will go through the old system, even under our bill.

George is quite correct, we have heard from a considerable number of tenants across the province. I went to a tenants' meeting out in Scarborough a few weeks ago that was sponsored by all the MPPs, including Mr Curling and Mr Phillips, and that was one of the issues that was raised by the tenants. All the MPPs sponsored the meeting, that is what I am saying; I am not suggesting that Mr Curling or Mr Phillips made any comments about the date. In fact, Gerry's staff was there; he was unable to be there, but there were many—

Ms Poole: I would just clarify that Mr Curling and Mr Phillips, in response to that meeting, in fact raised an objection because notices of that meeting went out on NDP letterhead. I would not want you to imply that they helped organize it or participated, that Mr Phillips participated.

Hon Mr Cooke: Mr Phillips was unable to attend, but I am sorry—I mean, this is not a big deal. Mr Curling was there and the constituency assistants for all the MPPs were

there. It was a meeting that was co-operatively—it was not a political meeting; it was a meeting to ask questions about Bill 4. Alvin was there and he spoke at the meeting, and in any case there were many tenants at that particular meeting who raised with me objections to the 1 October date. They were upset that the date was not more to their liking and covered more of the units in the Scarborough area because they were not getting covered by the protection of Bill 4. But again, a date had to be chosen, and no matter what date we chose, there would have been some concerns and some objections that were expressed.

I understand the concerns that landlords have expressed during the hearings on this bill. I understand that the same types of arguments were made concerning Bill 51, and there were many emotional presentations by landlords under the hearings for Bill 51 as well. I can certainly recall that there were also concerns expressed about the bill in the 1970s by the Davis government. In fact, I was quite interested on the day of hearings in my own town to note that a couple of the landlord groups that were making presentations, much to the liking of the members of the Conservative Party, when you were congratulating them for their presentation, they were not shy at saying to you: "Hey, this has been going on for 15 years. It was your party that brought in the first piece of rent regulation. We didn't like it back then and we don't like it now."

That is the nature of this issue. Rent regulation is not going to be supported by landlords and it is going to be embraced by tenants. Our party supports rent control. We have supported it for many, many years. Back in the 1970s we led the fight to bring in the first piece of rent control legislation. I do not apologize for that. It is something that I believe in very strongly.

I did not believe that the bill that was brought in in the 1970s was adequate; I do not believe that Bill 51 is adequate; I believe that we are moving in the direction of adequate legislation. That is a judgement we have to make. It is a judgement that I have made, and people will eventually decide whether we are right or whether we are wrong. But the date is very difficult, and to choose your date would mean that thousands of more units would be passed through the old system, and I cannot support that. You know I cannot support that, and if we allowed that, the effect would be that the moratorium would basically never take place.

What I have said, which I think is very important, is that in the consultation document we have indicated very clearly that we are prepared to have capital recognized in the permanent legislation. Obviously I understood that when the consultation document came out there were going to be some people who would view this as not paralleling the program for people, the promise that was made in the election, but I have come to the conclusion, and the government has come to the conclusion, that capital must be recognized.

Mr Tilson: Mr Chair.

The Acting Chair: On a point of order.

Mr Tilson: I think the minister has gone beyond—he is now digressing into a speech and I think he has gone beyond—

Hon Mr Cooke: How do you digress into a speech?

Mr Tilson: —the question that was asked. I am sure he will have his chance to give a speech, but I would like to ask him another question.

Hon Mr Cooke: Sure, go ahead.

Mr Tilson: I appreciate that you are dying to talk about this.

Mr Drainville: Just on a point of information, Mr Chair, are we ending at 5 o'clock this afternoon? I am just curious about this.

The Acting Chair: Yes, we are.

Mr Drainville: Okay. That is fine.

The Acting Chair: I would like to indicate that we do have four people on the list at the present time, so if we could have one more short question from you, Mr Tilson, and move on to our next—

Mr Tilson: Yes, I think it can be answered in that amount of time. The question is specifically on your last comment dealing with the number of people who would have gone through the system. In other words, if the date chosen was, say, the proposed amendment by the Liberal Party, if that in fact were the legislation that was passed, you indicated that you found it totally unacceptable to the thousands of people who would still go through the system under the old rules; but that gets back to the very first question asked, and that is, but those people were playing by the rules, those people were playing by the law of the province of Ontario, and do you think you have the right to change the rules in midstream? That is the question.

Hon Mr Cooke: And I indicated to you at the beginning that just as your party had made decisions and had, over its 42-year period in government, to bring in legislation that had a retroactive aspect to it—and I referred specifically to the wage and price control legislation—there has to be a judgement that is made of what the greater good is. And that judgement was made. I believe that we have not only the right but the responsibility to do that.

The Acting Chair: Thank you, Minister. Ladies and gentlemen, I am in the hands of the committee. It will be up to you people. I have four speakers left on the list. Do you wish to continue or do you wish to wrap up?

Mr Brown: Mr Chairman, I would move adjournment.

The Acting Chair: Okay. This committee is now adjourned until 7:30 this evening.

The committee recessed at 1658.

EVENING SITTING

The committee resumed at 1937.

STUART THOM

The Vice-Chair: This evening's business is to listen and discuss with Stuart Thom issues relating to rent control and rent review in general, and I guess particularly Bill 4. Mr Thom, welcome to the committee. We know of your expertise in this area and we are quite happy to have you with us this evening.

Mr Thom: Thank you, Mr Chairman. Thank you for asking me to come before you, ladies and gentlemen. As I have said to one or two of you, this is the first occasion since the report was released to the government in 1987 or released to the public in 1988 that I have had any opportunity or been invited to speak to a government emanation, a committee such as yourself or otherwise. I have in the intervening time had meetings with some landlord organizations, some party groups who thought they would be interested, but the governments of the day have not shown any particular interest.

Let me say right away, before I am misunderstood, when I speak of government I mean the general government of Ontario, because this scheme of rent regulation was introduced by a Conservative government, tightened up by a Liberal government in 1985 and is now being fine-tuned by an NDP government. There is no differentiation in my mind, so far as the overt actions of governments are concerned, between the attitudes of one successive government or another. So "government" is a general term as I use it this evening.

I have not got a prepared paper. I was not quite sure what was expected, and I thought if I got a prepared paper I would simply sit here and read and might not touch on the matters of interest to you. I will try not to take too long in my opening remarks. I look forward to any questions or comments you might have to offer later, and I will stay as long as you like or you can throw me out as soon as you are ready.

I would like to also make it clear that I hope I have a minimum of biases. None of us can avoid being biased in some respect to social and economic matters. You know something about my background. I have been a downtown lawyer, I come from the middle class and am reasonably prosperous, I can retire on a few savings and so on; but I was never a tenant except for a couple of years in Ottawa after the war, I am not a landlord and never have been. I do not have that personal direct experience except what I have gained in this activity in connection with rent regulation to understand the problems of landlords or tenants first hand as an operator in those fields. That may be a benefit, that may be a credit to me, I do not know. At least I say I try to minimize my biases as far as possible.

It is interesting that when the first volume of the report came out, it was received rather coolly by the landlords. They felt that I had given too much leeway to tenant criticisms of the then prevailing rent regulation system. That is simply my understanding of their reaction, but when we

settled down—and I am going to say we instead of I. First of all, this report was not the brainchild only of myself. It was the result of many discussions with our consultants and others, so I am going to say we without naming other persons. There were many and they are very competent people.

When we entered into the second phase, to consider the future of rent regulation, for reasons which escaped me then and still escape me, the tenants were of the opinion that they could not expect from me—I will have to say "me" here, I guess—an unbiased attitude to their problems. I was sorry about that. I regret it still. It has never been made quite clear to me.

I think it was felt that there was some indication that I was wedded to the market as though it was the be-all and end-all and answer to your problems and questions. As I perhaps will say and make clear in a moment, I am of the opinion that the market is the basic mode of operation in this business, but as you will have seen from the recommendations which you have before you, it was recommended in volume II that there would be a rent control system that was even more stringent than the present system because there would be no cost pass-through. I say here that although I think the market has to be given full play in the operation of this industry, it has its faults—you know them, I am not going to develop them—and it has to be controlled in some measure, particularly in this industry.

As the minister points out in his discussion paper, rental housing is a home. It is more than just a downtown business or a corner grocery store or something where you go to earn your living and go home at night. It is the home of the tenants, and they have to be given a fair measure of protection. Now, what is fair is the point that of course agitates everybody involved in these problems, but you cannot overlook the fact that tenants make a home, usually, in the rental accommodation that is available to them, so you have to give a special consideration to the problems that face them as a result of the operations of the market, and the market, I think, as I have just said, has to be in some measure restrained or else its impact is unfair and excessively burdensome on tenants.

I would like to make another general comment. Landlord and tenant relationships almost by their nature tend to be adversarial—not always so. I am sure in many instances—and percentages and so on are hard to guess and I am not going to try any—many relationships between a landlord and a tenant are friendly. The tenants like what the landlord does, the landlord likes what the tenant does and how they treat his or her building. But there is a basic sort of adversarial feature to the rent landlord and tenant relationship.

It is unfortunate that this rent regulation system in Ontario was launched on an adversarial basis, and by that I mean it was specifically denied, and still is, that the landlord and the tenant could negotiate the rents that should be paid and collected. I think that was unfortunate. It was one

of the reasons, one of the underlying thinkings behind the act of 1975. It is still there.

In Quebec, if you have the opportunity to give further attention to their operation, it is possible to negotiate a rent relationship, a rental amount, and I think it has many virtues, because it does not then exacerbate what tends to be a difficult relationship.

It was brought home during the course of the commission hearings, unfortunately all too often, that tenants regarded landlords as fat, bloated capitalists and landlords regarded tenants too often—I say too often; I am not trying statistics, but too often to be comfortable—as careless, thoughtless people who had no thought for the fact they were living in somebody else's property, which is a fact, and it resulted in bad feelings which made it very difficult to bring about a relationship that led to good results. However, that is another factor that has to be considered.

The rental housing industry is a very big one, probably one of the biggest industries in the province. As the deputy minister said in her comments here last month, the annual rentals are \$8 billion, which is a lot of money. I think she meant the total rentals including government and other types of buildings. I would say that to private landlords alone it is certainly well in excess of \$5 billion or \$6 billion. That is quite a sum of money. There are, as you have been already told, over a million rental housing units and we estimate about 100,000 landlords.

That brings in another feature which makes it difficult to regulate this industry—very difficult. One of the chief reasons for the difficulty you are having in trying to devise appropriate rules and regulations is that landlords come in all sizes and shapes. There is the mom-and-pop operation. There is the single home owner who puts a couple of rental units in his house. That is very important to him. There is the smaller corporation that has perhaps two or three dozen or so units. Then there there is the big monster corporation.

They all have one common factor—now this is basically where the market comes into play—that they have put into it—and “they” now is this range of landlords—a very substantial personal investment and they borrowed a lot of money, which they have to pay back. The mortgage companies have no qualms about collecting their money on the dot and according to the contract, and interest rates have been high, as you know. The landlords all have to meet a very substantial cost and they hope to get in return some return on their equity.

To understand return on equity is a matter I am not going to go into this evening. The economic theory and principles of rental housing are complicated. To understand what you are trying to do and handle this difficult social problem, you might think it is worth having an economist come to you and describe and discuss with you the economics of rental housing as the market operates. Not very many people understand it fully. I certainly did not, and I am not even sure I fully comprehend it.

But certainly landlords as a class expect to get some return on their investment or on their equity, whichever way you put it. If they do not get that return, they are going to put their money somewhere else and go somewhere else to invest their funds.

Now, what the amount of that equity should be and return should be, how to determine their equity and how you arrive at the return they are expected to get, is itself a very complicated situation, as you will have seen in the report, volume II. There is a very serious effort made to discuss the determination of return on equity and how it can be arrived at. I am not going to bring it up tonight. It is there to be read if you want to pursue the matter further.

But it is one of the basic factors of rental housing that, if you want private money in rental housing, you have to some time or other give landlords, investors—call them investors rather than landlords at the moment—a feeling they are going to get a fair return.

It is evident that they do not think today that they are getting a fair return. I am not going to repeat some of the evidence that has been given to you by such persons as Julius Melnitzer and Jonathan Krehm, just to name two of the people who appeared before you last month. The landlord community does not think it is getting a fair return on its investment, which is very substantial. You have got to have a very large capital investment to get a \$5-million gross income per annum; up in the billions. And if you do not have that attitude of mind, that feeling of comfort on the part of the landlords, they are not going to stay in the industry.

1950

That raises one of your big problems. Who is going to finance the costs of building, renewing, maintaining the rental units which are necessary to house the rental population of Ontario? It is an extraordinarily large sum of money. Now I am going to perhaps step outside the range of my proper interests: This province, this country, has not got that money just to throw at rental housing without the support and input of private landlords.

If you want to make rental housing a public utility, go ahead. Make it a public utility like Hydro. It will cost billions and billions of dollars. I simply do not think it can be done. I express now a personal opinion, but I think it is a fair one, that it is vitally important to the financial welfare of this province, let alone the welfare of the housing industry, that there be a very substantial input of private funds.

I now make the point without appearing, I hope, to be biased in favour of landlords: The prevailing system of rent regulation since 1975 has been progressively to discourage continuing new investment of private funds and maintaining the current investment of private funds. That is a very serious question in my mind, and although you may feel great sympathy for tenants and the problems they have, which I will mention in a moment, it seems to me most important that if this province is to financially maintain its rating—what is it, double A now; it was triple A, I believe—and not have to borrow great sums of money to keep rental housing available, the private money is imperative.

You have heard landlords on the subject already, so I am not going to develop their points. I simply say, I hope without displaying a bias, that that is one of the basic features of the problem before you, that private money is essential. If private money is going to stay in and come in in the amounts required, it has to have some expectation of return.

Turning to the tenants, they are a very varied group also. They could be categorized according to their economic position. About a third of the tenant households in Ontario are poor. That is not the word that is very popular—you can use “economically disadvantaged”—but they are poor. They cannot afford from their own resources, incomes, whatever they have, jobs, the rents required to pay economic rents to private landlords. That is one of the facts of life. It has been a fact of life, is, and will continue to be until there is some other way of organizing the economic community in which we live.

I am not going to get into the efforts that have been made in some other parts of the world to reform the capitalist system, whatever you want to call it, but so long as you maintain our present system of business, of economic system, there are going to be, regrettably, unfortunately, quite a lot of tenant households that cannot pay economic rents. I estimate about a third. It is quite a few—a lot of people.

At the other end of the scale—oh, say, 10%. These figures are not established anywhere, but they are a fair estimate. You can have different thoughts. You can go up or down a few percentage points either way. About 10% of the tenant population are quite well-to-do. They want to rent because, well, they are older people who do not want to have the bother and hassle of a house. They are what they call empty-nesters, or were. They would rather be able to travel and go off to Florida in the winter. They just like renting. They do not want the bother of looking after a house. Rent is no problem to them. They can pay rents of \$1,500, \$2,000 a month; it is perhaps 10%, 12% of their income. Fine.

I do not know why they were ever brought under the rent regulation system. That point was one of the pressure points in the mid-1980s when the Peterson government expanded rent regulation to include all tenants. I tell you quite frankly, it has never been clear to me why tenants who can afford to pay economic rents with no problem should have the protection of rent control.

I can give you what I believe was the thinking on the part of some tenants' spokesmen. I think they were misguided. They did not come before us in the second session to explain their thinking, some feeling that unless the totality of the rent regulation system was applied to all tenants, rich and poor, in some way the landlords would have some kind of an unfair advantage. I do not quite know what it is. I cannot explain it to you. I think it was a mistake to exclude the rich, the well-to-do—to exempt them, I should say, from rent control. However, that is something you might give serious thought to, and whether or not it would rejuvenate some part of the input of private money into the industry is a nice question for you to consider.

However, that incidentally brings up, in passing, a principle which was raised and discussed but never fully illuminated in the course of evidence put to the commission, which is that of dribbling down, that if there was an adequate input of new accommodation, over a period of time it would become old accommodation, would command lesser rents and be available for the less economically advantaged; that is, middle-income and poorer parts of the

population. It is quite a theory. It is strongly held by some people, that you put in good accommodation at the top and eventually, after several years—it takes time—it will be available as cheaper accommodation for those who have not got the money to pay for the better. I just make that in passing. There is nothing going into the top these days of any substance, so there is nothing passing down below. It is a theory which was not well developed in its full impact, it may not be too sound, but it has got something to think about.

However, continuing with the tenant population, in the middle something more than 50% of the tenant population are tenants frequently because they cannot afford to buy a house, often because they are just moving into the world, they have left home, the young people have left home and they want to live by themselves, they are people whose jobs take them here, there and so on, they are movers, they do not want to tie themselves into a house, and all kinds of reasons for being a tenant.

But the category I am discussing is those who can afford to pay reasonable economic rents. Now, what is a reasonable economic rent at the moment? I do not know. Your deputy minister told you that it was average rent somewhere in the range of \$500 to \$600 a month. I think that an economic rent at today's level is not going to get you much of a rental housing. That is just the average rent that is being paid, which is another question I will come to.

To provide adequate housing that is decent and livable, I think, is going to command a good deal more than \$500 if it was available. But there is a large part of the rental population that can pay those rents. They are the ones who benefit from rent control as it now prevails, and it is not too sure to me that they do not—it seems possible that they are benefiting unduly at the expense of landlords. We are back to this question of return on equity and return on investment. That problem agitated the commission, the inquiry, and consultants. It was the general feeling that rent regulation had reduced the overall rent intake by 10% to 25%, which is quite a lot of money that landlords do not get, and as a consequence they do not get their return on investment and so on and so on.

Whether the levels of rent increases are such that the middle range of tenants benefit at the expense of landlords is a question I have not an answer to. The landlords think it is so; the tenants feel that it is not so. I put myself in the position of a tenant. If the system is such that you can pay less rent than you could afford to pay, well, dandy, let's live on that basis. And this is not to impugn the morals or the fairness or the social responsibility of that group of tenants; it is simply that reducing rents has benefited a great number of tenants, I think, to a degree that is not fair to landlords.

2000

That is a very difficult thing to answer and deal with. It is simply an impression held very strongly by landlords, of course, and I think possibly supported if you take a somewhat dispassionate view of the whole industry. Those are the tenant situations. It is very difficult to devise a rent control scheme that is adjusted to those ranges of tenants—the poor, the middle-income and the rich. Yet we have one

rent control scheme that goes across the whole board, and I tell you quite frankly, I do not think it is working. I think you know it is not working.

The deputy minister, who gave you evidence last month, drew your attention to the situation that prevails with regard to the rent review system. It has become an extraordinarily complicated legislative provision, and that is the consequence of landlords who think that they just cannot live with the controlled rent levels they have to otherwise enjoy. You now have a bureaucracy. I do not know how many people are involved. I know what it is costing the government, about \$40 million? Has somebody got a current figure? When the inquiry finished, it was \$7 million; 10 years ago it was \$2 million or \$3 million.

The rent review legislation, and I speak as a person who at one time was involved in income tax, is one of the most complicated and difficult pieces of legislation and regulation that you can well expect. You have heard that from tenants and you have heard that from landlords. I do not think any regulatory system that has got itself in that condition can be considered to be a good system, and the minister, in his discussion paper, very properly points out that he is going to make an effort to devise in some way a regulatory system that will be simpler.

Here I again become very personal: I think he is going to fail. I do not think that as long as you try to impose a cost-pass-through system you are going to get anything but more and more complicated legislation for the very reason that landlords who think they have to get more rents than they would otherwise get under the controlled levels are going to think of ways for increasing the benefits they want to get and think they have to get.

It is just human nature. It is going to be what happens. It is like the income tax, which is now an enormously complicated statute because people seek to get the advantages, the benefits, the concessions from their payment of income tax. It is one of the features of control or, in this case, in the case of income tax, of a tax levy. Your regulatory system is going to become increasingly complicated. I do not need to produce witnesses in that regard; it has become increasingly complicated. Some of you may have had the opportunity to look at the volume of regulations in the statute. It is an unhappy situation. It makes everybody in the industry unhappy. It results in a very large bureaucracy of very well-intentioned, hardworking, intelligent people who might much better be employed perhaps in some other form of activity.

Let me turn now perhaps to the scheme of rent regulation which you now have and go back in history. By the way, how much time have I got, Mr Chairman?

The Vice-Chair: Well, Mr Thom, we have allowed you an hour and I would think you now have about 35 minutes.

Mr Thom: Oh, all right. I will go on for a while.

The Vice-Chair: I am sure though, sir, the members would like to ask you some questions.

Mr Thom: I want to go back to the history of your statute—of the statute, not your statute necessarily. It is rather gossipy but it is kind of relevant. Some of you perhaps

do not recall 1975, the 1970s. Without going any earlier than 1975, inflation was running out of control—10%, 12%, 15%. That was the year that Mr Trudeau first of all dumped on Mr Stanfield and then turned around and brought in the Anti-Inflation Board and imposed rent control.

The federal government said to the provinces, "Look, our inflation control isn't going to work unless you control rents among other things," and under that pressure and under pressure from tenants who were feeling the heat and problems of inflation the government of the day went to the people with a promise that it would impose some form of rent regulation.

The pressure on the government of the day was accentuated by a very astute political leader—and I am not going to go in for names, but some of you may know of him—who discovered gouging. Like these excessive rent increases which you heard a good deal about in your deliberation so far, gouging was a bad thing, very large rent increases. Gouging took the public fancy and the government of the day said, "We'll promise rent regulation." And they were returned, I think with a minority at that time—am I right—and they were held to their promise, I think perhaps more than they expected would happen, but nevertheless they were. They had to cooper up a rent regulation system. They laid on a ceiling on rent increases, 8% at that time, but they were under pressure from landlords and I may say I imagine to two thirds of the then cabinet rent regulation was a bad thing.

So to ease that pressure, they brought in cost pass-through. Cost pass-through, and I do not need to describe it to you, is to take care of those landlords whose costs exceeded the ceiling and to make their economic position viable they had to get more than the ceiling rent. Cost pass-through, I think, was intended as a temporary device until that happy day when the government of that day thought that it could get rid of rent regulation.

In fact, you may recall the original bill had a curfew—what is the word I want—to expire in two years. It ran on a bit, but the idea was to get rid of it. Anyway, cost pass-through was a safety valve, a blow-off valve. It was intended to make the landlords happy. When I say politicians, do not misunderstand me. I have got a very high regard for politicians because you have a very difficult job and you have got to answer to a lot of constituencies, pressures from all sides.

This system, which was devised, I think, quite out of the blue and in a great hurry in 1975, was meant to satisfy two sides of very strong constituencies, the landlords and the tenants, and you got cost-pass-through rent control. The history of course was that you never got rid of it—"you" being the government of the day—never got rid of rent control. The cost pass-through became looked upon almost as inherent in rent regulation and all that has happened is, as I have already mentioned in some general way, the complexities of cost pass-through have almost taken control of the whole system, in an effort to be fair to tenants and landlords and make sure that the cost pass-through did not exceed what would be considered reasonable.

Now I am going to make another general statement: I do not think that the wit of man as now displayed by

conomists, politicians, bureaucrats—I am using those words in a strictly neutral and favourable sense—can devise a system that can take the place of the market. The market has to be controlled, but the market looks after these other factors of our landlords getting too much, our tenants paying a fair rent and so on. It seems to me to be evident from the complexities of the present system that the effort to impose, by increasingly complicated regulation, what the market used to do clumsily, crudely, harshly perhaps and all those things, is just not going to work. If you will permit me, I think perhaps that is what we have seen happen in eastern Europe. Some kinds of controls over economic life just are too much for the wit of man to devise.

Now, I do not want to be thought negative, and maybe there are people who can devise a regulatory system that will do all those good things, but what has happened is that, step by step, your control of the rental housing market has become more intrusive, more complicated, more elaborate, more expensive. It is still unsatisfactory. That is the point. The minister makes that point again in his discussion paper. It is not getting anywhere, unfortunately.

You have the rental housing protection system—I forget the name of the act—the one that says landlords cannot get rid of their buildings, cannot just turn them into some other kind of income form, the one that says they have got to maintain their building up to a certain standard of acceptability to the tenants. Each of these is a further step to compensate for the fact that landlords say: “We’re not getting enough money. We can’t do these things.” And these are, many of them, sincere, honest people who just think they cannot do it.

2010
When I say that, I am not blowing any horns for landlords. I hope not. I am not intending to. The facts speak for themselves. You have had to introduce these restrictive controls, these further boards and committees to make landlords do what they say they cannot do because they have not got the money, and which they used to do in order to keep their tenants. The market saw that if you did not keep your building up, a tenant would go down the street and get another building.

Which brings me, of course, to the very important point of what has rent control done for tenants apart from reducing the amount of rent they have to pay in total. A good thing perhaps. It is nice that they do not have to pay so much rent, I am sure. They can spend it on something else, and we all like to spend money on something else if we have it, but what has happened to their housing milieu is there is no vacancy rate. That is another topic I might touch on before I run out of time. It used to be that if a tenant was not getting the kind of service, was not living at the kind of building he thought he should have for the rent he was paying, he could go down the street and there would be a vacancy available where he could make a deal with the landlord and get better accommodation.

The absence of the vacancy rate, and that was brought home to you by the deputy minister last month, has been a very severe detriment to tenants. On top of which they have suffered loss of services and poorer accommodation.

Mind you, they pay less rent but they have not had compensating benefits. In fact, it is a nice question that I have got no answer to, where the balance lies, whether they really benefited, in net, by rent regulation. I am not talking about that middle range of tenants who cannot afford the high rents.

By the way, there are lots of vacancies in the high rental market. They get lots of looked after; the landlords are begging them to rent. Just as I diverge a moment, condominiums are a dime a dozen on the market these days. If you can afford to pay \$1,500 or \$2,000 a month for rent, you have no problem with finding good accommodation and landlords anxious to do things for you. It is the middle-range tenants again who are suffering because there are no vacancies in their particular range of rental level, and nothing is being provided by way of new accommodation.

The rent system therefore is just running into deeper and deeper trouble, and if I sound a bit extreme, the minister himself recognizes that and says, “I’m going to do my best to cure it.” And with great respect to him and those who advised him, I don’t think he is going to do it by intensifying the rigours of rent regulation and the cost-pass-through system. That is an opinion that I express personally. It is not held by some people. All I can say is that when you look over the last 15 years, getting on to 16 now, and see nothing but increasing rigour, increasing control, more intrusive controls, more expenditure, less benefit except lesser rents for some people, more government money required to provide what the private money did not provide, I think you perhaps should recognize—and that is for you to decide of course; I am just making some personal thoughts—that perhaps some other way of controlling the market should be thought about and tried.

Back to my point, before I go on to other ways, the market, I think, as I have said, requires in some degree to be controlled. It is slow. It is harsh. It is hard on some people, particularly as it is slow in many respects and does not quickly, and as we now expect should be, respond to tenants’ problems the way it should. It also, by the way, is sometimes very hard on landlords. Back in the early 1970s there had been heavy overbuilding. Landlords were in the middle 1970s seeking to find tenants to occupy properties which were in overabundance. However, that is history; never mind about that.

With these situations facing it, the commission inquiring back in 1983 and 1984, when we tried to grapple with this situation—and really it has not changed in essence except I think become more of a problem, if anything—tried to think of some way that would control the market, provide tenants with the protection they are entitled to have and at the same time afford landlords a reasonable chance of getting the return on equity. In that way we keep private money in the industry and attract new money to maintain, preserve and increase the availability of rental accommodation, which led to the inquiry’s own concept of rent regulation.

At this point, I think it was perhaps a good idea. To my knowledge, it has never been publicly taken apart, dissected, maybe shown to be nonsense, by any responsible

economist or other government body. It simply is there. It is still there.

You would think I am trying to sell you something. I am. I think this is a possible alternative to a rent regulation system which, as I have said, I think is just getting deeper and deeper into trouble.

A rent regulation system proposed by the inquiry had two aspects, first of all to control what was considered to be a major problem, that landlords were making too much money, that the industry was charging as an industry too high rents, and proposed there should be a ceiling on rent increases. A ceiling would be such as to provide the landlord industry—not specific landlords, the landlord industry—with a fair rent. All that is discussed at length in the report and it is a complicated matter and I am not going to go into it in detail here. But a fair rent is one that would give the industry a fair return on investment, and in that regard a leaf was taken out of the book of other regulated industries, in which there are boards which seek to devise what should be a fair return on the investment in that industry and how to determine what charges should be made in order to ensure a fair return to those who put their money into the industry.

I am not an economist. I have even yet problems in explaining it and defining it. It is in the inquiry. People who I thought were competent in these lines of activity gave evidence that led the inquiry to believe that you could devise a system of rent control whereby a rent increase ceiling would be put at such a level that the landlord industry would get a fair return on its investment. The industry was treated as a total industry.

That brings me to a point that I think is of considerable importance. The effort to deal with individual landlords and treat each of them as a separate problem to see whether that landlord gets a fair return is where your problem lies. Landlords have different histories, the buildings have different histories, they were built at different times, the mortgage is different, the capacities of land owners are different. You have to treat the whole industry as the subject of your concern, and does it get a fair return.

2020

Finally, my one point, Mr Chairman—you are about to give me the hammer, the gavel—is that the second aspect of the inquiry's rent regulation proposal is that you have got to get rents back into some level of equality among like rental units. At the present time, as you have been told, rents for similar and like units are all over the place and the inquiry recommended that there be a study made of the whole industry, so far as it wanted to expose itself to it, so that like units in the same building or in the same area or the same city would pay like rents and start them off—equalization in other words, which I may say is a no-no to tenants but I think, considering the present irregular levels of rents paid by the tenant population, is a necessity in order to be fair for the tenants.

You start, then, with a fair basis of equality of rents in relation to the type and nature of the accommodation and impose a rent ceiling which will assure the landlord industry of a fair return and those who are good landlords will survive and, like any other activity in the market, those

that will not will have trouble. It will not be the business of the government, it will be the market that will then come into play, provided that the industry is assured it can get a fair return.

That is just stating things in generalities. I think I have given you the substance of my feelings about the matter. Have I used up my time, Mr Chairman?

The Vice-Chair: Well, Mr Thom, I was thinking that the members would like the opportunity to maybe focus the discussion on things of interest to them. You have raised a number of issues, so perhaps we could further explore it through the questions of the members.

Mr. Thom: I think I have run through my points.

Ms Poole: Welcome to our committee, Mr Thom.

Mr Thom: Thank you, Ms Poole.

Ms Poole: I very much appreciated your comments this evening and your very commonsense approach to this very difficult issue. At the end of your remarks you have suggested a ceiling on the industry where rents would be capped but would allow landlords a fair rate of return, and I assume by that, landlords would then best determine how to run their buildings within this—

Mr Thom: They would be quite free to run their own buildings, yes. They would have to stay within the limit, that is all.

Ms Poole: One question I would have for you, if we were to change our system to this concept, how would you recommend that we take care of that one-third portion of the tenants that you referred to who are disadvantaged, or poor, and simply could not afford to pay any type of increase of that magnitude? Do you have any specific ideas of how you would deal with this?

Mr Thom: Yes, I have. I think that is where government has to play its positive parts. You have to provide some sort of a housing or welfare allowance for that part of the tenant population that cannot pay economic rents. Whether you are spending a great deal of money on rental housing, I think you have to actually give the tenant population the money required to pay the rent.

Ms Poole: So what you would be proposing would be that a certain proportion of a landlord's units would be set aside for those who would need government subsidy?

Mr Thom: Possibly in a transition period that might be so, but in the end result the hope would be that that would not be required, that there would be available housing from the industry, from the private side of the industry, for those lower-income tenants who, with the assistance of welfare or rental housing allowances, could afford to pay the economic rents.

Let me just add that is a very contentious issue and when I make that proposal I know that it has been argued back and forth and I know further that it is anathema to the tenants, for the simple reason that they think it is putting money in the hands of landlords.

I have answered your question, I hope.

Ms Poole: Yes.

The Vice-Chair: I will go to Mr Tilson. I think we will just go one question at a time around and that will be the fairest way to proceed.

Mr Tilson: Mr Thom, I must confess, watching you give your report without notes on two volumes is interesting, and it is interesting, the fact that you were first asked to look into this subject of residential tenancies in 1982 and Bill 51, of course, was released prior to the release of your second volume, and of course at a cumulative cost, at least in 1987, as I understand it, of over \$3 million. It is astounding that this is the first time that you have come to a government committee to give your comments. However, here you are and I certainly appreciate someone of your stature coming to enlighten us.

When your second report was brought to the government, it was the Minister of Housing of the day who immediately rejected your report, pointing out the initial implementation cost of \$300 million. At least that is what I understand from looking at previous press stories as to why the government did not proceed. Do you have any thoughts on that now?

Mr Thom: No, I have not. It was admitted in the report that there would be a transition period during which government would continue to have to provide housing, by subsidized housing and by housing allowances, to look after the fact that there was not available accommodation and that some people could not pay the rents. How much that would be, the minister gave your estimate. How long the transition would be, I do not know. I have to admit that it would be somewhat of an act of faith to switch horses, shall I say, and move to another form of rent regulation. How much it would cost—maybe the minister was right.

Mr Tilson: One of the thoughts that has come up of course is the issue of subsidies, which you have alluded to with Ms Poole, and that is a remark that has come to us over and over again, specifically from tenants' groups, and indeed from members of the government, saying that tenants will simply say, "Well, with respect to subsidies, we'll simply touch the money as it passes on its way to the landlords and it's not really going to help us at all." That has been a criticism, of course, of the thought of subsidies. Do you have any thoughts on that?

Mr Thom: The answer might be that you would hope the landlord would put some money into rental housing, and what the balance between government input to that third who cannot pay economic rents would be as compared to the investments you would hope to get from landlords who are getting an economic rent and were reinvesting in the industry I do not know. One would hope that it would be a fair balance. There is certainly going to be a cost to government, no matter what sort of system you have or none at all, to provide support for the third of the tenant population.

The Vice-Chair: Mr Tilson, I think we will go over to Mrs Harrington and we will come back around.

Ms Harrington: I would like to thank you very much for coming. I also have a little note here from our caucus to let you know that one of our members, Dennis Drainville, at this moment is chairing our caucus meeting, which

unfortunately always happens Tuesday night at 7 o'clock, and also our other member, Noel Duignan, is at 8 o'clock making a presentation to caucus which had been arranged some time before, so we apologize for not being here in full force.

Mr Thom: I am just happy enough to be here.

Ms Harrington: Thank you. I did go over and underline all kinds of things last night in my bedtime reading here. My first question actually was very similar to what I think Mr Tilson asked, and that was, when your report was released, the second volume, in 1987, I was wondering if you could speculate on why it was not acted upon.

Mr Thom: I have no personal direct knowledge because I had no communication with either a minister of government or a member of the ministry. As has been mentioned, the government had introduced its own rent regulation act in the late fall of—when was it?

Ms Harrington: In 1986.

Mr Thom: In 1986, and was committed to a continuation of the cost pass-through system and—I can understand it, perhaps, in a way—was not prepared, having taken that step, to switch horses simply on the strength of this report.

Ms Harrington: Just to clarify a little bit, if that was the case, I am wondering, who commissioned you to do this? It was the same government? Does it go way back, in 1982?

Interjections.

Ms Poole: The Tories did.

Ms Harrington: But the second volume then was commissioned by the same minister?

Mr Thom: I have to go back a little bit. You may remember November of 1982 was the time of the great Greymac-Kilderkin scam with Rosenberg and Player and Markle and the government was faced with the situation resulting from their activities.

Ms Harrington: I see.

Mr Thom: I say this now with great respect to Mr Elgie, who is a very excellent gentleman, but also, there is nothing like a commission to take the public's mind off difficult problems.

Ms Harrington: Just one quick question. In your report—

Mr Thom: I have not finished. When the commission brought in its first volume we made some useful things, and while we were deliberating on what to do in the future the government of that day brought in its own bill, as has just been said, and I guess they just did not want to reverse course.

I really wondered at the time why they let me go ahead. Now, you will have to ask some of the ministers of the government of that day, because I have never had an answer. I never asked. I was quite happy to struggle ahead. I was never told, but anyway they let me finish and we brought in a report, a dandy report.

Is that the answer to your question?

The Vice-Chair: If the Chair might be permitted a question, I am interested in your theories but I have some

difficulty in believing that the investment community would come back to this industry in a way that might be meaningful, given the highly political nature of this industry and of the issues, how they might, whatever regime was put in place, believe that that regime would be in place long enough for their investment decisions to be secure.

Mr Thom: Do you expect me to answer that, sir?

The Vice-Chair: I am just wondering if you might speculate a little bit on it. It has troubled me that, from my perspective, investment might ever return to this industry, given the fact that governments are wont to change their mind and electorates are wont to change governments.

Mr Thom: It is a speculation that has troubled many people and one that has to attract considerable support. I can only think that if it is imperative to get private money back in, the system has to change to give expectation of fair return with less hassle than cost pass-through, and that is the hope. It is just a hope; I do not know. I would have hoped it would be the case.

The Vice-Chair: Thank you. Mrs Poole?

Ms Poole: Thank you. I am glad you divorced yourself from my caucus. I thought you were taking my question time there for a moment.

The Vice-Chair: Once in a while I should have a prerogative up here.

Ms Poole: Mr Thom, you are very familiar with these issues, you spent five years of your life studying them, and I assume that you have also had a pretty good working knowledge of what is happening with Bill 4, the current interim rent control legislation.

There is, as you know, a retroactive provision in Bill 4 that is giving a number of us on the committee a great deal of difficulty, and maybe more so for people like me who have been supporting tenants for many years but just find the retroactivity unfair.

In your study of the previous items of legislation, did you take a look at the effect of retroactivity, whether there was notice given in most cases of the rent review changes, what the impact would be of the retroactivity in this particular bill, which is really affecting capital repairs that may well have been done in the spring of 1990 or even back to 1989, and also the phase-in orders that this bill proposes to void? Have you any comments on that or what the possible effect on the trust in the housing industry might be?

Mr Thom: Well, I think no one would advocate retroactive legislation as a general policy. I think we all feel that retroactive legislation is unfortunate. It is, however, not new in rent regulation. The 1975 act, which was passed in late 1975, was related back to 1 July of that year. The 1985 act was retroactive. Degrees of retroactivity and of the impact on the landlord population may differ, but it is not a new thing and perhaps it should not surprise anybody that it has been resorted to again, for reasons which no doubt seem valid to those who devise government policy.

Ms Poole: I agree with you there is always some element of retroactivity, you just cannot get away from it in legislation, but I suppose what I have the greatest difficulty with is that there was no notice. It is not a matter

of introducing the bill and then once people see what is in the bill they have noticed that things are going to change and even though the legislation has not passed they have had notice that things are going to change.

In Bill 4 there was not notice and in fact people who expended money under the rules of the law of the land at the time were then told after the fact that: "Well, yes, you may have spent \$200,000 repairing your property and, yes, the tenants may well have been happy with those repairs, but that's irrelevant. The fact of the matter is that we've changed the rules and it is going to affect you, and that's too bad." There is no grandfathering and there was no notice, and I just feel that this is somewhat more unusual than most retroactive aspects in that regard.

Mr Thom: I do not think that it is in order for me to express personal opinions on the policy of the present government in this regard. You have had landlords fulminating before you, outraged and so on. I am not going to repeat them, you have heard it all.

Speaking simply as a citizen, I think, as I said, retroactive legislation is unfortunate, and when it has a severe effect on some people it is doubly unfortunate, of course. That is not something that requires much thinking on the part of the person who makes the comment. But as to whether this government of the day felt that the circumstances were so severe that they had to be retroactive, I do not know. I have not analysed or thought about the problems that they had and the problems they were coping with. If I repeat what landlords have told you, I think I would be stepping out of the function which I am attempting to serve here.

Mr Tilson: Mr Thom, the subject that you have talked about with respect to landlords receiving a fair return, I was interested in your comparison, of course, of housing as a public utility and your comment that it simply cannot be done. I agree with that. I do not think the taxpayer can even dream of pulling that one off, although that seems to be the philosophy of the New Democratic Party.

If the Homes Now program, the non-profit housing unit or something similar to that, in other words, government-operated-type operations, continue to increase, which appears to be the philosophy of this government, in other words, that the private sector may be less dominant than it is, you have commented on that, but if the government is going in the direction that has been suggested, what do you think will happen?

Mr Thom: I hate to put myself on record as to what I think might happen because it is rather a defeatist kind of impression, over which I could go off the record.

I will be foolish. I think that the situation is going to become increasingly difficult until eventually it will be recognized that cost pass-through and all its complications have to be somehow done away with. Now, how bad things have to get before you get to that point I do not know, but my own personal opinion is that it has got nowhere to go except down. That is a very personal opinion and you can discount it all you please, but I hope it is not regarded as being hostile to the tenants, because I think their position is going to continue to suffer as well until the situation is cured.

The Vice-Chair: Mrs Harrington, you have the honour of the last question.

Ms Harrington: Thank you, Mr Chair. In your conclusions and recommendations that we looked at, recommendation 6 said, "That the rate of return on initial capital investment be the landlord's cost of capital." What I wanted to get at, and I think you have answered it here but just wanted to verify that I understand it, is that we want landlords in this province, we want private landlords who make a fair profit and who I hope are reputable and deal with their tenants in a good manner.

What would you say should be a fair return? I think what I am reading here is that it would be the cost of capital? Is that what you are saying? What would be a fair return?

Mr Thom: I can give you a figure which was put to the commission, somewhere between 15% and 20%. If you start with the most secure kind of investment, a Canada Savings Bond, you are getting about 10% or 11%. The rental housing industry is one that has its ups and downs with the general economic condition of the country and increasing costs and other unpredictable future disadvantages, and a return even twice that might not seem out the way. Those are figures that have been put before the inquiry by responsible people and I could only give it back to you as being the sort of figure that might be spoken of.

Ms Harrington: Over the past, say, 10 years, or 15, whatever you would like to deal with, what do you think has been landlords'—not just a return, you know, year by year, but overall return as an investment? We are talking about their capital gain into that as well.

Mr Thom: Nobody knows.

Ms Harrington: No one—you would not—

Mr Thom: It has never been studied.

Ms Harrington: I mean, you are the expert.

Mr Thom: No, no, it would require a very elaborate and difficult and intensive study and it has never been done.

Ms Harrington: Let me ask you to speculate. Would you think it would be 5%, 10%, 15%, 20%, or just—do you want to give a wild guess?

Mr Thom: No, I cannot make a guess, because it would be a stupid and foolish one. I have not got the intellectual background or the understanding to do it. But I can put this to you, that in the days when there was a free market, some substantial investors put large sums of money into rental housing because they thought they could make a fair return and I would assume they were expecting returns certainly of over 15%. In fact I would think they expect more, considering the vagaries of the rental housing market and the problems that are involved in it.

Ms Harrington: And you think they have got it then? You think they would get that return?

Mr Thom: They would not put their money in unless they thought they would.

Ms Harrington: Right.

The Vice-Chair: Thank you, Mr Thom. The committee has greatly enjoyed your presentation and certainly it has given us a lot of food for thought. So thank you for appearing, sir.

Mr Thom: Thank you for your attention.

The Vice-Chair: The committee will be adjourned until 10 o'clock tomorrow morning.

The committee adjourned at 2046.

CONTENTS

Tuesday 19 February 1991

Residential Rent Regulation Amendment Act, 1990, Bill 4 . . . . .	.G-68
Afternoon sitting . . . . .	.G-69
Evening sitting . . . . .	.G-71
Stuart Thom . . . . .	.G-71
Adjournment . . . . .	.G-71

STANDING COMMITTEE ON GENERAL GOVERNMENT

Chair: Mancini, Remo (Essex South L)
Acting Chair: Miclash, Frank (Kenora L)
Vice-Chair: Brown, Michael A. (Algoma-Manitoulin L)
 Abel, Donald (Wentworth North NDP)
 Bisson, Gilles (Cochrane South NDP)
 Drainville, Dennis (Victoria-Haliburton NDP)
 Duignan, Noel (Halton North NDP)
 Harrington, Margaret H. (Niagara Falls NDP)
 Mahoney, Steven W. (Mississauga West L)
 Mammoliti, George (Yorkview NDP)
 Murdoch, Bill (Grey PC)
 O'Neill, Yvonne (Ottawa Rideau L)
 Scott, Ian G. (St George-St. David L)
 Turnbull, David (York Mills PC)

Substitutions:

Kwinter, Monte (Wilson Heights L) for Mrs O'Neill
 Miclash, Frank (Kenora L) for Mrs O'Neill
 Owens, Stephen (Scarborough Centre NDP) for Mr Abel
 Poole, Dianne (Eglinton L) for Mr Scott
 Tilson, David (Dufferin-Peel PC) for Mr B. Murdoch
 Ward, Margery (Don Mills NDP) for Mr Bisson

Clerk: Deller, Deborah

Staff:

Baldwin, Elizabeth, Legislative Counsel
 Hunter, Leith, Legislative Counsel
 Richmond, Jerry, Research Officer, Legislative Research Service



G-15 1991

G-15 1991

ISSN 1180-5218

**Legislative Assembly
of Ontario**

First Session, 35th Parliament

**Official Report
of Debates
(Hansard)**

Wednesday 20 February 1991

**Assemblée législative
de l'Ontario**

Première session, 35^e législature

**Journal
des débats
(Hansard)**

Le mercredi 20 février 1991

**Standing committee on
general government**

Residential Rent Regulation
Amendment Act, 1990

**Comité permanent des
affaires gouvernementales**

Loi de 1990 modifiant
la réglementation des loyers
d'habitation

Chair: Remo Mancini
Clerk: Deborah Deller

Président : Remo Mancini
Greffier : Deborah Deller

Published by the Legislative Assembly of Ontario
Editor of Debates: Don Cameron



Publié par l'Assemblée législative de l'Ontario
Éditeur des débats : Don Cameron

Table of Contents

Table of Contents for proceedings reported in this issue appears at the back, together with a list of committee members and other members taking part.

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at (416) 965-2159.

Languages in Hansard

Hansard reports all debates in English or French as spoken by the participants. It does not translate remarks made in either language. Headings and tables of contents reflect language use.

Subscriptions

Subscription information may be obtained from: Sessional Subscription Service, Publications Ontario, Ministry of Government Services, 5th Floor, 880 Bay Street, Toronto, Ontario, M7A 1N8. Phone (416) 326-5310, 326-5311 or toll-free 1-800-668-9938.

Table des matières

La table des matières des séances rapportées dans ce numéro se trouve à l'arrière de ce fascicule, ainsi qu'une liste des membres du comité et des autres députés ayant participé.

Il existe un index cumulatif des numéros précédents. Les renseignements qu'il contient sont à votre disposition par téléphone auprès des employés de l'index du Journal des débats au (416) 965-2159.

Langues paraissant dans le Journal des débats

Le Journal des débats rapporte en anglais ou en français les débats, selon la langue utilisée par les participants. Les remarques faites en l'une ou l'autre langue ne sont pas traduites. La langue des en-têtes et de la table des matières reflète la langue utilisée.

Abonnements

Pour les abonnements, veuillez prendre contact avec le Service d'abonnement parlementaire, Publications Ontario, ministère des Services gouvernementaux, 5^e étage, 880, rue Bay, Toronto (Ontario) M7A 1N8. Par téléphone : (416) 326-5310, 326-5311 ou, sans frais : 1-800-668-9938.

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON GENERAL GOVERNMENT

Wednesday 20 February 1991

The committee met at 1012 in room 151.

RESIDENTIAL RENT REGULATION AMENDMENT ACT, 1990

Resuming consideration of Bill 4, An Act to amend the Residential Rent Regulation Amendment Act, 1986.

The Chair: I see a quorum.

It is my understanding that the committee has carried the following sections of Bill 4: sections 2, 3, 4, 5, 6 and 7, section 8 with section 100a; that there had been discussion on section 100b, and furthermore, that section 1 of the bill had been stood down. Is it my understanding that we are going to go back to section 1?

Mr Mammoliti: I would recommend it.

The Chair: The committee would recommend that?

Ms Poole: If anybody else would recommend it I would say no, but for you—

The Chair: Very good. There is a lot of co-operation here.

Mr Tilson: Mr Chair, before we start I have a question of information, you can certainly call it, and it has to do with ads that have started to appear in the newspapers around the province—there was one in the Globe and Mail, there was one in my riding—on rent control, inviting members of the public to make submissions or attend public meetings. Several places are listed indicating that meetings start in March although they are saying they would like to hear from people by 5 April. In other words, the meetings are to be held throughout March but you have got until 5 April to contact us.

I guess I would like to know specifically how much the public relations of this whole process is going to cost, and second, because we are going to get calls on this, a clarification, where it is being listed that meetings are going to be held in Barrie, Etobicoke, London, Ottawa, Toronto, Sudbury and Windsor throughout March—although they do not have to let them know until 5 April, I do not understand that—but what specific dates those are being held on.

I guess I ask that question of the minister.

The Chair: Okay. We have the minister with us this morning as our guest. Minister, the way I understand it, Mr Tilson has asked two questions: one, the cost of the ads, another, the ancillary costs.

Mr Tilson: It may be ads, it may be other things, it may be radio ads, Mr Chair.

The Chair: Okay.

Mr Tilson: The public relations cost of this project.

The Chair: The cost of the advertising campaign and second, the specific dates of the meetings that are being advertised.

Hon Mr Cooke: I can get you the specific dates. I do not have them in my head, there is a schedule. I think the ad is fairly clear, though, and as we indicated the other day, 5 April is the—because there will be several ways that people will provide for their input. Some will be attending public meetings, some will be having the special consultation meetings, the interest groups, and some will write. As I indicated in my statement the other day, there is also a summary of the discussion document that is going out to over 900,000 households across the province, the various tenant households across the province, so there is a very extensive consultation process.

My recollection is that the entire process is costing us approximately \$500,000.

Mr Tilson: You are just sending that notice to tenants?

Hon Mr Cooke: No, the tenant households. I am not the expert in the field, but obviously we can do that through the mail walk process. Obviously the entire consultation document, the full consultation document is going to another list of people which will include landlords' groups and tenant organizations as well. So the summary is going to households; the package, the full consultation document is going to a whole host of interest groups.

Mr Tilson: Is there going to be another notice that will go in the press indicating when these specific dates will be held?

Hon Mr Cooke: I cannot answer that. I will get the answer for you; in fact, we will get for you a little summary of the entire consultation process.

Mr Tilson: But your answer is that the public relations aspect of this process will cost half a million dollars.

Hon Mr Cooke: That is my recollection.

Mr Tilson: Thank you.

Hon Mr Cooke: When you refer to it as a public relations exercise, if you take a look at the summary of the consultation document, and we will also supply it to you, I do not see it that way, it is a consultation process. Even a document that is going to tenants cannot be viewed as a political document. It is a very fair, non-partisan summary.

Mr Tilson: You are referring to the green paper?

Hon Mr Cooke: I am talking about the summary of it that is going to tenant households.

Mr Tilson: Will you be making that available to this committee?

Hon Mr Cooke: Yes, we will try to get to you as quickly as possible a summary of the entire consultation process plus that document.

Mr Tilson: Thank you, Mr Chairman.

Mr Duignan: Getting back to Bill 4 for a minute, we were in the middle of discussion or debate on 100b. Would

it be more appropriate to conclude the debate on 100b before we move to section 1?

The Chair: It is up to the committee. I am willing to continue on the discussion for section 100b. I have a list that has been carried over from the 19 February. We can proceed with the list as I see it, or we can go back to section 1. If we were in the middle of the debate, maybe it would be better to finish up 100b, but I am in the committee's hands. I was not here with you yesterday, so I am a little bit at a disadvantage to know what to advise the committee. What is the wish of the committee? Do we complete 100b or do we go—

Mr Abel: Yes, 100b.

Mr Duignan: Let's complete 100b.

The Chair: Do I see a consensus? Okay, that is what we are going to do then.

All right. The standing committee on general government then is going to proceed with clause-by-clause review of Bill 4. As I stated earlier, a number of sections have been carried and we are now discussing section 100b. The list carried over from 19 February is Mrs Ward, Mr Turnbull—I guess the minister is on the list.

Hon Mr Cooke: I think I spoke. In fact, I think I spoke too long.

The Chair: Okay. Mr Brown and then Mrs Poole. Does that list seem familiar? Ms Ward.

Ms M. Ward: I pass. It is no longer terribly relevant.

The Chair: Thank you. Mr Turnbull.
Section 8:

Mr Turnbull: Well, I will be brief, because I think the moment has passed, but I want to revisit just briefly with the minister this whole question of retroactivity. As the minister will appreciate, this has been the most contentious issue in the whole of this debate. Yesterday, in your absence I addressed myself to your parliamentary assistant and I pointed out the fact that it is tremendously important that people respect parliamentary tradition and your right to govern, and nobody challenges that, Minister.

However, I think you would find it utterly repugnant if at the point when your government is no longer in power, as undoubtedly at some point it will change—and I said yesterday there is no doubt that any government in Canada today has got to accept the fact that in time its time will pass.

Hon Mr Cooke: I was just looking forward to 42 years.

Mr Turnbull: I am sure you would find it utterly repugnant if a subsequent administration were to pass retroactive legislation which would nullify all of your changes retroactively and say that tenants had to pay back all of the increases that they should have been paying. I would say that that would undermine the democratic process of this country. Every time there has been any discussion about the date and the retroactivity, it has always been suggested that any date you would have chosen would cause problems. I can quite understand that. Part of the political spectrum would have problems with any date and it is true. However, this is somewhat different to any normal retroactive

legislation where it goes back a few weeks or even a few months.

1020

Because of the way that Bill 51 worked, people purchased buildings. I have to emphasize that many of them, the majority of them certainly were not in the business of flipping. They were buying them as long-term investments where they structured their financing within the framework of Bill 51. In fact, very often you would have people financing up to 85% of the purchase price. I think probably one of the few areas you and I could agree on is that 85% was a ridiculously high amount. Traditionally, in other forms of real estate investment 75% was considered as a normal, healthy ratio in any commercial investment, and that is not to say that somebody who is developing a property may have less equity in. But we are talking about resales.

But notwithstanding the fact that you and I might agree on the fact that 85% was too much, these people purchased buildings in many cases with their life's savings and this was their pension fund. A lot of the small landlords have no other source of pension. They have bought these buildings within the framework of the law as far back as the introduction of Bill 51, and because of phase-in orders they are going to lose the ability to get those increases which were calculated. The argument that these people were making bad business decisions has no validity when you consider the cost that many of these people were paying for the apartments on a per-unit basis relative to the replacement value of those units and certainly relative to what non-profit housing is costing.

So these people are going to be wiped out. Notwithstanding the fact that you are saying that you will allow them to reapply under the permanent legislation, you have the problem that they will be bankrupt. You cannot retroactively unbankrupt them. So I have to say to you once again, in the interests of tenants, because we have heard Mrs Poole speak quite eloquently about the fact that tenants are hurt when they are tenants in buildings that go bankrupt, will you not reconsider the retroactive aspects of this legislation?

Hon Mr Cooke: I wish I had been able to be with you last evening. I certainly will want to, and I have not, and because instant Hansard takes a little bit longer to come out of committee, I have not had a chance to read directly the transcript last night. But I gather that Mr Thom, in answer to a question from the Liberal Housing critic, made it clear that the whole issue of retroactivity has been visited in the past when we have dealt with rent review legislation starting back in 1975. I cannot give you an exact quote, but I believe he made the point last night that this is not the first piece of rent review or rent regulation legislation that has been retroactive. I think it is important to keep in mind that even back in the 1970s, when your party was in power and legislation came in, the rent review legislation that was brought in by the Davis government had a retroactive nature to it as well.

The phase-in issue is something that I feel particularly strongly about. I think phase-ins were a very nasty part of Bill 51 because over time it made units very unaffordable.

There were cases of 10 and longer numbers of years for the guideline, plus 5% was built into the rent increases. If we had to allow all of the phase-ins to continue, we would be allowing one of the more negative aspects of Bill 51 to continue for years and years. I just could not live with that aspect of Bill 51.

I would just remind you, on a final point, that I have indicated, and I hope one of the issues the committee might address will be on the permanent legislation with respect to capital, how we might treat the buildings that would have been able to apply through the rent review system for capital but have been caught by Bill 4, whether there should be a provision in the permanent legislation to address that issue. I certainly will be looking to the committee, as well as people throughout the province, for their views on that.

Mr Turnbull: Minister, taking part of your response, because there are several things you said—unfortunately I was not able to stay last night and I did not hear that section of Mr Thom's answers—but you will recall, because I believe that you were actually in the House; you were a member at the time that rent review was brought in originally—

Hon Mr Cooke: No.

Mr Turnbull: No? Okay, well not long thereafter. While it was retroactive in the respect that it included buildings which had some impact on the overall profitability, it did not reach back years before that to the framework of the financial structure within which the people had purchased those buildings, and of course it only took in the older buildings, it did not take in new buildings at the time. That is the first point I wanted to make.

The other point is, I would remind you that Mr Thom, last night before I left, said that with respect, he did not believe that your efforts, encapsulated by the green paper, would work. He actually recommended that we go to some sort of shelter allowance for, I think he used the number the bottom third of the population.

You also mentioned in your answer that you thought the phase-in aspect was something which was reprehensible, but it has been suggested by your members during these hearings that the offsetting value to low net incomes, and in some cases negative net incomes from landlords owning apartment buildings, was the capital appreciation. But you will appreciate that if you have a loss and you stay within the guidelines which are essentially the cost that all things are rising by, you will still have a loss at the end of the day.

By allowing the phase-in, it was a mechanism by which you allowed some sort of capital appreciation, the very capital appreciation that your members have been citing as the offsetting saving factor to landlords. If you do not allow that, you will have no capital appreciation and it totally takes away from landlords the incentive to invest in housing. Mr Thom said last night that he felt, first of all, that there was no government in Canada that had sufficient funds to be able to provide the rental housing which was needed, so if you drive these people away, you will not have any more rental housing created.

Hon Mr Cooke: I think that if you take a look at the statistics over the years, the numbers of units that have been constructed in the private sector have been relatively low since about 1974, before the first rent review legislation came in. If you take a look at the numbers in British Columbia, where has it been five years now that they have had an unregulated market, the numbers of units that have been constructed out there have been very low, so I would argue that construction of new units in the private sector has a lot to do with a whole bunch of other issues you are very familiar with in this province and that the rent regulation issue is not going to affect that one way or the other.

1030

Certainly during the consultation process, and I believe it is in the document, one of the issues I would like to hear from people about is the whole idea of whether we can do anything in the rent review legislation for buildings that go up at the beginning, of whether there should be a period of time that buildings are exempted from rent regulation, whether it is three years or whether it is five years and then they would automatically come into the system. I do not know whether that would work, whether that would be helpful or not. Some people I have talked to in the private sector over the last number of months have indicated that it might be helpful. I hope that that is one of the issues I will hear from people about, both landlords and tenants. I am told that a three-year period would probably be too short, that if you were going to do it, it would probably have to be five years.

I would certainly like to hear from people about that, both landlords and tenants. If tenants object to it, I would like to know exactly why, what the difficulty would be, because if they ultimately do come under rent control and arguments certainly can be made that the protection is guaranteed at the end of the five years, it is not as if we are doing what was in the original legislation, post-1976 buildings not being covered at all, ever. This would be a special mechanism that would be to allow private developers to construct their buildings, exempt them for five years so that they can search out the market and set their rents based on what they need and based on what the market will provide and then at the end of the five years they would have to come under rent control. I have not made up my mind on that. If you think it would work, I would like to hear from people about that. That might be one mechanism.

Mr Turnbull: Starting out from the first part of your answer, you will recall that when construction slowed down prior to the introduction of rent controls, it was a period when you had had a certain amount of overbuilding. There was a vacancy rate and the cost of construction suddenly shot up and as you get waves in the market, you will always have slowdowns and acceleration of construction in a normal market. But with respect to BC, I think you will find there a perfect example of reluctance to start into construction of rental accommodation due to the fact that after the long period of regulation there is a certain period where people have to get comfortable again, that governments are not going to move with precisely the type of legislation that you are bringing in here.

I have to say that yes, you are correct. Three years would not be sufficient to make an apartment building viable. I would suggest that probably five years is too short and you have to look at probably eight years, and I am just simply basing that on all of the factors that apply to office construction today. But we certainly cannot say that simply because there has been no construction here, it is not going to occur. When you look at the unregulated markets in the US vis-à-vis, say, New York, where you have this terrible problem of long-term regulation, you get on an orderly basis construction, and it slows down and increases according to absorption of those units and other market factors. But if you drive developers out of the private market, you are going to drive them out, I suggest, for a very long time.

I would respectfully point out that we heard in the hearings here the president of the Graydon Hall Tenants' Association, who supported rent regulation but said that retroactive legislation was inappropriate. His solution was certainly to make sure that rent increases were based upon a base rent and not upon the renovation costs and that renovation costs would drop off after they had been amortized. I see that in your discussion paper.

But another of my tenants' groups, the president of the St Andrews Tenants' Association, suggested that property taxes were the best way of funding things, but he did not like retroactive legislation.

The Chair: I want to make sure we have as much freewheeling discussion on every section as we possibly can and I would just ask members to try as much as possible to speak specifically to the section we are dealing with. That will give us all more time to deal with each and every section. I do not think the discussion this morning has in any way been out of order, but I think on occasion maybe we can start talking about subjects which are not contained in section 100b, but I will leave it up to the members of the committee to judge for themselves.

Mr Turnbull: Mr Chair, I said that by way of explanation in response to what the minister said, because you will recall—

The Chair: I understand.

Mr Turnbull: —I asked about getting into the retroactive.

The Chair: I was talking to the minister too.

Mr Turnbull: I have said what I have to say. I think that retroactivity is extremely bad. It sends the wrong message, and not only does it send the wrong message in a Conservative viewpoint, but I think the tenants are the net losers and that your party will be the net loser too, because when you have no decent standards, you are going to have a very great difficulty explaining your housing policy in the future.

Hon Mr Cooke: I hope the message coming out of this process will be that we have indicated that the permanent legislation is going to deal with capital, and I am prepared, as we develop the permanent legislation, to take a look at the capital that has been expended by landlords and caught by Bill 4. I am prepared to look at that issue and see if it can be incorporated in the permanent legislation.

So, without going into it at length, because I do not want the Chairman to cut me off, it was interesting, on my way back from holidays I picked up a copy of the New York Times and read it on the plane. There was an extremely large article on the weekend about the rent control system in New York, which started in 1947 after a housing emergency was declared. Their definition in New York of a housing emergency is when the vacancy rate drops below 5%. If we had a 5% vacancy rate or the over-4% vacancy they have now we would be in wonderful condition, but that is what they use in New York, and they have a very tough rent regulation system.

Mr Turnbull: You know, Minister, New York is the best example of having had long rent regulations and absolutely choking off construction. There are some reprehensible practices going on in New York, as you well know. There is key money and all of these things.

You know, with respect, I have to say that—I mentioned it yesterday when you were away—the Conservative Party, along with all of the other people around this table, is concerned about the need for affordable, safe, accessible housing for all people. Where we differ is how we get there, and we really believe that it is a fundamental problem unless we can ensure that private funds are available and incented to invest. Mr Thom confirmed this last night, and I think it can truly be said that Mr Thom rose above all politics, because he took a little swipe at all three parties last night. I would urge you to read the transcript of what he had to say last night.

Thank you, Mr Chair. I think I have made my point.

Mr Brown: I will be brief. I made an intervention yesterday which I thought was totally persuasive, but I was obviously wrong.

Ms Poole: Wrong again.

Mr Brown: Wrong again, and received a lecture about the greater good.

What I am concerned with, Minister, is obviously the retroactivity in the bill and the message it sends to the investment community and I am a little confused. We have seen in this province since 1 October a government whose message to the investment community has been a little bit mixed. Varity Corp, which you promised could not leave Ontario, was allowed to go. In the case of Consumers' Gas, that had to be owned by Ontario; it was sold to British interests. And most recently, in Sault Ste Marie the government, to its credit, and I applaud it for what it has done, provided a loan guarantee to Algoma Steel Corp in the interests of protecting jobs and protecting steel-making capacity in Canada and particularly in this province. As a member who represents part of the district of Algoma, I am very pleased about the fact that you have intervened and done that.

1040

But here at this committee we have had numerous landlords before us, the big ones, the large landlords, who have all said the same thing: "We do not like this legislation. We find problems with it. But, you know, we will survive. We will live to fight another day." The small landlords, of whom we have had numerous ones before us

aid: "Well, our portfolio isn't mixed. We own one building. We own three units. We own 12 units. We own 10 units. We are not going to make it. We are just not going to make it. And we cannot unsell or unbuy our building. We can't go back. We did everything in accordance with the regulations that were there at the present time."

So I understand your position. It is the greater good, from your position, although I disagree, but your position says the greater good is that we go forward with this retroactivity. That is the greater good. Well, if that is the greater good and that must be proceeded with, why can we not do something for the landlords who are going to go bankrupt, are going to lose their life's savings, are not going to have pension, are not going to be able to live in the style they would be accustomed to? They did nothing wrong other than believe the government.

I wonder if you could do the same for the small landlord, provide the loan guarantees, go to the banks and say: "Yes, we will back your mortgage until you can get this thing refinanced. We will do these things. We do them for Algoma Steel, we do them for the big companies, we do them for the big operators in this province. We will do it for the individuals." I wonder if you have considered that approach and would take that approach through the executive council and say: "Look, we have got to help the little guy. We are not just the party of big business."

Hon Mr Cooke: I appreciate the fact, Mr Chairman—

Mr Abel: I think you have got the wrong party there, Mike.

Mr Mammoliti: I think that is a first, Mike.

Hon Mr Cooke: —that I will take the comments the member has made about as seriously—the last comment, anyway—as he means them.

Mr Brown: I take my comments seriously. Maybe I got a little excited in the last part.

Hon Mr Cooke: I certainly take your comments seriously as well. But I would indicate to you that if you reviewed the transcripts from hearings that took place on Bill 51, you would see that the numbers of landlords who came before the standing committee that studied Bill 51 and the emotion and the concern expressed about Bill 51 were identical. That is the nature of rent regulation. Small landlords came forward and indicated they had great difficulty with the legislation, that it was going to harm them and so forth. There were lots of hearings right in this room where landlords were before the committee and there were some examples of landlords weeping because they were concerned about Bill 51 as well. That is the nature of rent regulation.

The other point I would make to you is that I do not know how you would ever make an assessment of what the difficulties were that landlords were having in this province. You obviously disagree with me, but I certainly submit to you that the difficulty with bankruptcies in this province right now, whether it is in the small business sector or in the large business sector or in the landlord sector, is to do with policies of high interest rates that are set by the federal government and a deliberate attempt by the federal government to slow down the economy, which

has thrown us into a very deep recession. Every time there is a recession, of course there is a huge number of casualties and I really want to hold the appropriate person responsible and I would suggest that it is the federal government.

Mr Brown: Well, Mr Cooke, we do not disagree that the federal government in its high interest rate policy is creating havoc in the Canadian economy and the Ontario economy.

Mr Tilson: We disagree.

Mr Brown: You will get your turn in a minute, David.

What I would suggest to you, though, is that these people went to banks; they got loans, not always for pass-through of financial loss but for capital expenditure. They went and in good faith got these loans. They do not have a choice, minister. It has nothing to do with the free market because there is no free market according to rents, it is controlled. There is no free market. These buildings are full, there are no vacancies in these buildings. In most cases the tenants have agreed this is okay.

We are talking about the small landlords I am concerned about. I cannot see the problem. If you can figure it out for Algoma Steel, why can you not do it for the little guy, for the individual, for the fellow who is risking his life's savings? Create a system where they come before you. I do not think you should run around the province looking for them, but I think they could certainly approach the government and let the government know they are having difficulties. They could prove to you that it was not because of the general economic situation, that it was directly as a result of the retroactivity provisions of this bill. Would you not consider that?

Hon Mr Cooke: I indicated to you that my assessment of the problem is quite different from your assessment. That is to be expected. Usually when I was in opposition I had an assessment of the problem different from whatever minister of the day we were talking to.

But I would point out to you, and I think you remember, that there are 130,000 units that even under Bill 4 are going through the old system, which is over 10% of the market. And there are certainly a large number of people who feel very strongly that the date of 1 October was wrong, that the date should have been an earlier date. Along with the government, I had to make an assessment of what was a fair date to choose and I believed at the time that the bill was introduced, and I still believe today, that 1 October was a fair date. This morning before I came into committee, Councillor Kay Gardner was waiting for me outside with some constituents of hers who may in fact be constituents of your Housing critic, I do not know, and nearly 3,000 names on petitions indicating that they expected a full protection for tenants in this province.

So it is a balancing act, I agree. You feel that I have not chosen the proper balance. Other groups feel that I have not chosen the proper balance either. They think I should have fallen more on the side of even greater protection for tenants. I think that on an interim basis we have found a fair balance.

Mr Brown: I guess we disagree.

Hon Mr Cooke: We do.

Mr Brown: And our party is about to place an amendment in the very near future concerning this section. But I have difficulty when you compare the retroactivity aspects of this bill to Bill 51. We know there were some retroactive—

Hon Mr Cooke: I was just talking about Stuart Thom's comments last night.

Mr Brown: —retroactive provisions in Bill 51. But they were different and you know they were different and I do not have to pursue those. They are not the same, and to try to make it appear as if Bill 51's provisions are identical to this one's is just not fair and I will leave it at that.

Ms Poole: Mr Chair, Mr Minister, I do have a number of comments to make about the retroactivity. First of all, I would like to dispel the myth that we can compare the retroactivity of Bill 4 to the retroactivity of Bill 51.

1050

Bill 51 arose out of the NDP-Liberal accord in May 1985. In 1985 the Liberals appointed a rent advisory committee to look at this whole issue and to expand even beyond the basis of the accord. The legislation was introduced in June 1986 and it was given royal assent in December 1986. It is true the legislation was retroactive or parts of it were retroactive to August 1985. A large proportion of the act actually went into force and effect on the date of proclamation, but section 71, which related to the rent increases, went into effect August 1985.

But every person in this province was aware, because of the great publicity behind it, of what was happening to rent review and what the government was considering. There were landlords or tenants who made decisions in that interim before the act was given final proclamation, did it with full knowledge of what the government was intending to do. That is very different from the government coming out on 28 November and saying retroactively, "We are going to do this to you."

There are two separate issues with the retroactivity. One, the one I am going to address primarily right now, relates to capital expenditures. Minister, there was not anything in Bill 51 which said that if a landlord spent money renovating the building, prior to notice being given by the government that it was changing the rules, those expenditures could not be recouped, and that is what Bill 4 does. It says that a landlord who went out—in many cases they used their homes as collateral, in many cases they did not. These are small landlords we are talking about who did not have the money to do these capital repairs. The financial institution lent them the money on the basis that they would have an increase in rents to recover these losses. And now you have said that even though they acted within the law in the spring of 1990: "Too bad. We are going to cover you under this legislation." To me that is a very, very different thing.

I know that you feel, minister, that it is giving you some consolation and giving other people some consolation that you may be able to rectify some of these inequities in your final long-term legislation, but as I have said before in this committee, bankrupt is bankrupt. You cannot bring

them back from the dead and unfortunately that is the state we are in.

I wish, Minister, that you had been on this committee when we heard presentations because I think, as Mr Drainville said yesterday, members did not remain unmoved. I would take that double negative to mean that we were moved as committee members and I think you will all agree, particularly when people presenting to us did break down in tears.

We had Emil Tancredi, who came from Europe between 20 to 35 years ago and to quote from his comments "looking for a more democratic and fair government which we found in Canada." He said: "We are losing our savings of a lifetime because of our government. We are not 20 years old any more so that we can start over again. What do you suggest we do? Our lives and families are being destroyed by our government." And he broke down in tears as he said those words.

We had Brian Timmons, who was a relatively young man, I would say in the vintage of the minister and myself—

Mr Tilson: That old?

Ms Poole: —who had consulted with his tenants and he showed us copies of his newsletters to them. He followed their suggestions, he incorporated their suggestions, he adapted the renovations to suit their convenience and their schedules and he faces the loss of his retirement savings he has been putting money into for a number of years.

We had Jim Bright, and I think a number of members will remember Mr Bright as he sat here with his son. He broke down; he could not continue when he was talking about how his knuckles and his palms were calloused from the handyman work in the building that he owns and now as he is just going into retirement, he is on the verge of bankruptcy if Bill 4 goes through.

We heard from Marty Cash, who has already laid off 20 workers from his window replacement company and said he would have to close his company, putting 80 employees out of work.

We heard from John Makuch and I think you will remember him. He was a young man with a family and he told us he was going to lose his concrete rehabilitation company. He has to tell his children that he is going to be out of work and they are going to have to sell their home and move.

We heard from Barbara Carpenter, a Sudbury landlord who put her life's savings into renovating a run-down 75-year-old property and she cried as she told us she would lose everything. We looked at the rents that were going to be charged after the very major renovation that she received a loan for and the rents were not unreasonable. These are all people who have come before us, admittedly from the side of the small landlords, who are going to suffer and who told us their life stories.

One final one from the landlord's perspective; the name of the man was, I believe, Mr Reitter and he gave some examples of retroactivity. He said, "As a homeowner, could you imagine having arranged a five-year mortgage at 11%, feeling secure in your new home until after one year the mortgage company informs you that it

has declared void your mortgage and that for the remaining four years the interest rate has risen to 15%? As an employer, could you imagine new minimum wage laws being passed retroactive to 1986? As an employee, could you imagine your written employment contracts simply being cancelled in mid-term and wages reduced?"

Hon Mr Cooke: You did that.

Ms Poole: "As a landlord, good decisions made in 1987 now turn into poor decisions. Money spent in 1990 can never be recovered. Income granted in 1987 by the Ministry of Housing is now made void," and it is going to have dramatic implications.

I had a copy of a letter sent to me that Altus Property Management sent to a couple of its tenants which said:

"Please find enclosed"—and then it has the tenant's name, which I will not read into the record—"January 1991 rent cheque in the amount of \$19.51 and your repair receipts. I know that I had agreed to pay these bills to correct the damages caused by the previous tenant. When I made this agreement with you, I was expecting to get certain rent increases which had already been granted or applied for. Now I find that the NDP has legislated me into a financial loss position and I am not able to live up to our agreement.

"I must now ask you to pay your full January rent in the amount of \$532.94. I do not intend to ask you to pay your December 1990 rent and have already accepted your repair receipts over a month ago and no matter how hard I try, I cannot stoop to the level of our provincial government and make you pay retroactively.

"I'm sure you feel that it is disgusting that someone would tell you to spend money and you will be reimbursed, only to find after spending the money that you will not. If you wish to call Premier Bob Rae or Housing Minister Dave Cooke, I am sure they will be happy to explain that thanks to them this is the way business is now done in Ontario."

If this government thinks it is going to buy the votes of tenants through this retroactive provision, it is wrong. We had presentations from tenant groups and major tenant groups that decried the unfairness of the retroactivity.

The Housing Help Centre for Hamilton-Wentworth is a group whose mandate is to help and advocate for low-income tenants. We had a very, very sensitive brief from them as to what they would like to see in Bill 4 and in the long term. This is what they said about the retroactivity:

"Any rent review system should treat all stakeholders fairly and equitably. Retroactive legislation is rarely justified and always dangerous. Retroactivity requires overwhelming evidence as to its necessity to justify such action. Bill 4 incorporates retroactivity to 1 October 1990. We are certainly aware of tenants who face very large increases because of applications which involve capital expenditures and refinancing. We are not aware of the total number of applications and units or the magnitude of increases which this retroactive feature captures in Hamilton-Wentworth or Ontario. Therefore we feel that the burden of proof is on the government to clearly prove to the public

that there are sufficient numbers involved to justify this action."

I have asked for the figures. The minister in the House said the reason they chose the date of 1 October was because there was a flood of applications in the fall. They had to nip this in the bud because these landlords were taking advantage of the fact that they wanted to get in before the NDP managed to do its rent control legislation. I have the figures for the last three years. We were given them as a committee. They show every fall, which is somewhat natural because most of the construction for capital expenditures occurs in the spring and summer months, that there are more applications than there are in the dead of winter, which is not surprising. But I am comparing the figures for the fall of 1989 and the fall of 1990; there were around 73,000 applications in the fall of 1989 and there were over 76,000 applications in the fall of 1990. I just do not see the justification the minister used, which was that there was a new flood brought on by the fact there was a new NDP government. The figures do not justify it.

1100

We had other presentations from tenant associations. I am going to read to you briefly from the submission by the Graydon Hall Manor Tenants' Association, the Winchfield Place Tenants' Association and the 7 Roanoke Road Tenants' Association, which are very large associations in North York:

"In all fairness, though we appreciate the intent of the legislation brought in to halt abuses in the rental industry by a relatively few landlords, unfortunately its retroactive provision has caused real hardship for quite a number of honest, hardworking and decent landlords. We do not consider it at all fair or ethical to change the rules after the work has been done except in very exceptional circumstances, and we consider it to be a well-intentioned but unfortunate error of judgement."

And finally, from the tenants of a 56-unit apartment at 1000 Huron Street in London, Ontario:

"Our landlord has continually strived to give us good rental accommodation at a fair price. Two years ago, when our parking lot became congested, our landlord decided to enlarge it for our benefit at his own expense. We are entitled to one parking space per unit, according to our lease. However, he provided the extra space which we now use for our second vehicles and our visitors' vehicles without hesitation.

"We recently had the leaky roof replaced, new carpets installed in all apartments, new counter tops and taps, new hall carpets and a beautiful new lobby installed. All of this work was carried out in a proper and legal fashion, all tenants in our building were agreeable to 17% increase in rent, which our landlord legitimately applied for. We were all given written notification from the Ministry of Housing informing us that we had 45 days in which to dispute the suggested increase, but we all knew that we had nothing to dispute because every replacement in our building had been a necessary replacement."

Underlined it says, "Not one of us balked.

"We are now led to understand that you, sir, are not going to grant our landlord his increase in rent and we would suggest that you rethink this decision.

"As tenants we are concerned that:

"(a) Our landlord may be forced into selling our building to someone who will not look after us nearly as well as he does; and

"(b) The level of care and consideration which we have received in the past will greatly deteriorate because our landlord cannot get a decent return on his investment.

"Your flagrant disregard of our wants and needs leaves us no alternative but to demand that you turn your attention away from landlords and tenants, because you obviously know nothing about this situation. In short, don't call us, we'll call you."

And the petition is signed—a 56-unit building—with a signature of every tenant in the building.

So do not try to tell me this is for tenant protection because, Minister, there are other ways in which you could have been providing tenant protection. I mentioned yesterday on the committee prior to your arrival back from Windsor that I have a building in my riding that is under receivership because the landlord went bankrupt and what has happened to those tenants. It is not a pretty picture. My office has had to intervene on a number of occasions to get them heat, to get them hydro.

Right now, with the Ministry of Consumer and Commercial Relations we are trying to intervene to get the elevator working, which the ministry refuses to give the permit for because there is no maintenance contract in place. There is no maintenance contract in place because there is no landlord who will give the maintenance contract and we are in a catch-22 situation. That is what is going to happen when landlords go bankrupt, and I know you think they are crying wolf. You are saying, "Well, landlords said this under Bill 51 and they didn't go bankrupt." This is very different because the small landlords went out there and got the loans on the proviso that they were going to get returns through rent increases in order to pay those loans back. They will go bankrupt, and it just seems to me that we have to reach some compromise on it.

I believe that the Conservatives may have been talking about making this legislation retroactive only to the date of proclamation. I understand their intent and maybe logically it makes sense, but I say to you, I share your concern that if you do that, then your bill basically will have been gutted. But my amendment, which I will be proposing shortly as soon as we have heard from Mr Tilson, will not gut your retroactivity.

I would like statistics from the Ministry of Revenue stating how many applications would be affected by this, what the average rent increase would be, the effect on tenants. I have heard none of that. These amendments were tabled at the beginning of the Ottawa Friday hearings and I would like to find out why that amendment is not reasonable and why it cannot work. To me it would protect landlords who did go out in good faith, did renovations, and many of them necessary renovations on their buildings, spent that money and now face bankruptcy. At the same

time it is going to protect tenants who will not end up with a bankrupt landlord and who will pay the price that way.

We are talking two different situations, Bill 4 and Bill 51. Show me where in Bill 4 there was notice given, show me in Bill 4 where there is grandfathering to buffer. Show me this and I would be happy to vote in favour of this motion that is before us, but I cannot. My conscience will not allow me. The easiest thing for me to do, particularly with my riding, which is 60% tenants, is to try to buy their votes and say: "Well, so what. You always break a few eggs in making an omelette." I cannot in good conscience do that, minister. So if you have comments to make now that will make me change my mind and will allow me to vote in good conscience for your provision, then I would be happy to hear those comments.

Hon Mr Cooke: We will discuss in more detail your amendment when your amendment is put, but I have great difficulty with the approach that the member is taking because the member talks about the approach that we are taking in the legislation and how she in all conscience cannot support it. But I remember very clearly, when this bill was being debated on second reading, that your party supported this legislation. There is more to second reading than simply saying you support the concept of rent control and that is the principle involved. This legislation was very specific.

Interjection.

Hon Mr Cooke: Please let me continue. I listened to you.

I think you are very much trying to have it both ways and I am getting a little sick and tired of hearing that from your party.

I have a lot more respect for an approach that is taken by the third party that tells us right from the beginning, up front what its position is. They are opposed to it, they do not like the idea of rent regulation in general, they voted against Bill 4 and so forth. You are very much trying to have it both ways and you cannot have it both ways on such a difficult issue.

We have told you why we have proceeded with 1 October. I told you that in the House when we had a second reading debate. I talked to you several times about the issue and you understood; you had to understand from talking to me that the 1 October date was not up for grabs. That is part of the principle of this legislation and I am not prepared to accept amendments which would gut the whole purpose of having an interim period to bring us to the permanent legislation. This is a temporary piece of legislation.

I agree it is a tough piece of legislation. It is the kind of approach we promised during the election, it is the kind of approach we promised before the election and it is the kind of approach we delivered on. I remember very clearly the day I introduced the legislation. The first part of your response to my statement in the House was, "Mr Minister, you didn't deliver on your promise. You didn't go far enough," and then the second part of your comment was, "Mr Minister, you went too far." Well, you cannot have it both ways and you are trying to have it both ways. That

might work in your riding, but it is not the kind of approach we are taking in our government.

1110

Ms Poole: Mr Minister, I have a number of comments I would like to refute. First of all, you talked about when this legislation was introduced in the House and my response to it, that on the first part I said you did not deliver on your promise and you did not go far enough, and that on the second part I said you went too far. Do not misquote me, Mr Minister. I said in the first part that you did not deliver on your promise because of either of two circumstances. One is that you realized your promise was unworkable and unrealistic, or two, that out of purely political opportunism you delivered that promise knowing that it was unrealistic and could not work, but you delivered it because you wanted the votes. That is what I condemned. I made it very clear that I did not agree with the promise and I did not think it realistic or workable, and I have had this conversation with you on many occasions, including in the previous Parliament.

Second, you have condemned our party for voting for this legislation on second reading and quite frankly, you have been in the House long enough to know that when you are voting on the principle of the bill it does not mean that you agree with every provision in that bill. You know that. Unlike the third party, we do not have a policy or an inherent philosophical bent against rent regulation. In our party we believe it is necessary. In the best of all possible worlds, sure, a free market system would work, but we are not in that world and we do have to have rent regulation. That has been the stand of our party for many years and continues to be, so there is nothing that we were violating in our principles by voting for that legislation. But I made it very clear in the speeches I gave at the time that while we supported the principle of tenant protection—we even supported the principle of a moratorium, a pause in which to look at the long-term legislation and make the system more simple and to changes—while we agreed with that, there were provisions that we were opposed to. And from day one of your introduction of that legislation, that was our principle, that was our stand and we have remained firm in that.

As far as having to understand that the date of 1 October was not negotiable, no, I did not understand that that was cast in stone. I appreciated the fact and I understood that you did not want your bill gutted, but I have received nothing in statistics or figures or anything else to show me that the principle of your bill will be gutted by accepting applications until 28 November.

So yes, I am afraid that I do have a disagreement, and it is not a matter of it playing well in my riding. In my riding the best thing for me to do would have been to support your legislation on second reading, to come to the hearings and support you to the hilt and go back to my riding and say: "See what I have forced this government to do. Look at my stands over the years on behalf of tenants." I cannot do that and I could not do that.

The Chair: Very good. I think we are going to have to move along. Minister, did you have any final comments? Mr Tilson.

Mr Tilson: Mr Minister, I have disagreed with almost everything you have said in these hearings and in the House on rent control up until now, and I do agree with you. I think that the Liberal Party is trying to have it both ways. I think it depends who is sitting out here. You know we have a vote in the House supporting Bill 4 by the Liberals and yet we come to this hearing and there seems to be opposition to it. So it is confusing to the public as to exactly where the Liberals are going and we will wait and see. However, that does not necessarily mean divide and conquer.

Hon Mr Cooke: I would not dare to try that.

Mr Tilson: Of course you would not.

Hon Mr Cooke: It worked for 42 years. I am not going to think it is going to work for ever.

Mr Tilson: Having said that, having said my concern as to the approach the Liberals have taken, I do agree with much of what Ms Poole has said and it is quite apparent we have put you on notice. Ms Poole has put you on notice as to what her amendment will be to this retroactive section and I have, although it is not in writing, but you know if that fails I will be putting forward a motion with respect to the date of proclamation. Anticipating these amendments—and I know, Mr Chairman, we are getting into a debate on amendments that have not even been made, but I like to follow through; having taken a shot at Ms Poole, I would then like to support her on her request.

Ms Poole: On a point of order, Mr Chairman: this is very confusing to me. I wish the Conservative Party would be consistent.

Mr Tilson: Having taken a shot at Ms Poole, and I will try not to overdo it too much, I think she has put forward a reasonable request, Mr Chair, before any amendments are made, because the minister has made some comments as to the effect of the number of applications that will be affected by the type of amendment that is being proposed by the Liberal Party and the number of applications that would be affected if the amendment is made by the Progressive Conservative Party, which has to do, of course, with the date of proclamation.

So those are two sets of information that I think should be given by the ministry because it has these facts. They have been referring to them and I think it would be useful to know the numbers of application. That is my question, Mr Chairman, to the minister.

Hon Mr Cooke: The second question is a little more difficult to answer because I have no idea what day the bill is going to be proclaimed. That will have something to do with you.

Mr Tilson: It won't work, Mr Chairman, but go ahead.

Hon Mr Cooke: My understanding of the figures is that there are 130,000 applications that go through the system that are not covered by Bill 4 and there are 110,000 that will be affected by Bill 4. That includes, and we can give

to you a breakdown, the phase-ins and that includes applications for rent review. We know the phase-ins, of course, but I cannot give you a statistic on the rent increases that would be non-phase-ins, because the only statistic that is kept is after the rent review hearing process has proceeded. So the only statistics we have are the decisions that have already been made, and we are not talking about decisions that have already been made. We are talking about applications, so I cannot give you a statistic on the rent increase for the non-phase-in units that are affected by the moratorium.

Mr Tilson: Can you give us information on the statistics as to the phase-ins that have actually been ordered, that have actually been granted?

Hon Mr Cooke: Yes, the phase-in information we can give you. I can give you a breakdown of the 110,000.

Mr Tilson: Yes.

Hon Mr Cooke: I do not know if Colleen has that.

Ms Parrish: Phase-ins are always capped at 5%, so you cannot have a phase-in that is more.

Mr Tilson: Yes.

Ms Parrish: You may have some that are a little bit less; they are coming up to the end, you know.

Mr Tilson: Can you be specific on your statistics?

Hon Mr Cooke: Break down the 110,000?

Mr Tilson: Yes.

Ms Parrish: I cannot this very second, but we can try to do it this afternoon. I think there are about 30,000 phase-ins, so there are 110,000 of which 30,000 are phase-in.

Hon Mr Cooke: That is the break; the breakdown is close to that. There are 30,000 phase-ins and then the balance are individual units that are applications pending.

Mr Tilson: I have three or four questions, Mr Chairman, but I wanted to support Ms Poole on that request. You know these amendments are coming and if that information can be made available before those amendments are made, I think the committee should hear that information, that detailed information, before we vote on those amendments.

Mr Chairman, I have some questions for the minister specifically on the issue of retroactivity. The minister has referred of course to previous legislation, starting in 1975 and in 1986, and there has been reference made by him and indeed by Mr Thom that there are retroactive features in both of those pieces of legislation, although if I could start supporting Ms Poole, there is no question that the type of retroactivity certainly was not near the type of retroactivity that has been put forward by your government.

In other words, there was some notice that was given in the previous bills, mainly through the types of discussions, but all of a sudden it is announced by your government. In other words, it is like—surprise—a 28 November surprise party. Has the NDP become a surprise party? I would like your comments because you have boasted that your government fought the retroactive features that were put forward in 1975 and 1986 and you boast that you are different from the other parties. Why are you being different now?

1120

Hon Mr Cooke: I have not indicated that we opposed the retroactive nature of this—

Mr Tilson: You supported it?

Hon Mr Cooke: I was not in the House in 1975—

Mr Tilson: I was not in the House in 1975 either, but—

Hon Mr Cooke: —but I certainly remember that we supported the bill. Bill 51 we opposed, but not on the grounds of its being retroactive. We opposed it on the grounds that it was not an adequate piece of legislation to protect tenants.

Mr Tilson: So you are telling us that your party supported the retroactive features in 1975 and 1986?

Hon Mr Cooke: Supported the legislation because we felt that it was important to protect tenants, yes.

Mr Tilson: And specifically, your position, and you have indicated that you personally were not present, but to your knowledge your party has supported those aspects of those bills.

Hon Mr Cooke: Supported the need to protect tenants and that was part of the legislation. As I say, we did oppose Bill 51 because we did not think it provided adequate protection for tenants.

The Chair: If I could help you out, between 1975 and 1977 the Conservatives and the NDP had an unwritten gentleman's agreement to support each other to keep the minority government going. I do not know all of the details of it.

Mr Tilson: Thanks very much, Mr Chairman.

Hon Mr Cooke: We always rely on the Chairman's memory.

Ms Poole: Mr Chair, I would assume that if you are making that statement in 1987 in 1990 terms you would of course have used the word "gentlewoman." Just at the time it was an old boys' club; 1975-77 is an old boys' club, right? Things have changed.

The Chair: It is just a term, a colloquial term. It is just like *buon giorno*. You can say that in the afternoon also.

Mr Tilson: Perhaps I could go on, Mr Chairman. The second question I have is again on retroactivity. I believe that when a government makes a law, it is a government with its citizens—to avoid the feminine/masculine aspect of it—a contract with its citizens to do certain things. And the people of the province, the citizens of the province, must know the law.

I give an example, Mr Minister. I saw some time ago a cartoon of you, an editorial cartoon. I suppose that is an example of having arrived, when someone is depicting you in an editorial cartoon. The cartoon depicted a scene where someone was charged under the Highway Traffic Act for speeding and at a specific speed rate, a legal speed rate, except that the law was made retroactive and subsequently, when someone was actually driving he was within the law and some time later, because of a retroactive feature, he found himself outside the law.

Here we are, this has been handed to me. Maybe we should submit this as an exhibit, Mr Chairman.

The Chair: I have not seen it. I would love to see it.

Mr Tilson: Yes, I will file this as an exhibit.

Ms Poole: Why do you not read it out?

Hon Mr Cooke: I have heard it.

Mr Tilson: "So you see, Mr Cooke, they lowered the speed limit on the 401 retroactively in the name of the public safety, you know, just like your rent review. Anyway, you now have 37 speeding violations recorded on video for that time period. Hmm, very expensive. I am sure you understand it is in the public interest." I would like to file that as an exhibit, Mr Chairman, and I am sure the minister will comment on his editorial cartoon.

But I think that we are getting down to the issue of breach of contract. We are talking about between the government and citizens, we are talking about issues of natural justice, following the rules of natural justice. If an individual, a landlord, raises the rent beyond the statutory guidelines set forth in Bill 51, or the Residential Rent Regulation Act, 1986, he can be fined. Several things can happen to them; one, the tenants—as I understand it, and tenants pay that—can deduct it off their future rent, but more important, they can be fined. They can be fined up to \$25,000.

So therefore landlords are saying to us across the province that they have made applications, and you are going to be providing us with statistics of people who have followed the law, and as Ms Poole has read out to you, have in many cases got the consent of tenants and they have followed the law. Yet all of a sudden, out of nowhere the surprise party breaks the rules itself and says, "Sorry, that's not the rules any more," even though they have spent the money, they have the consent of the tenants, they have done the work and everything of course is therefore retroactive and these people are going broke.

My question to you is, if Bill 4 is implemented, if this retroactive feature is implemented, is it breaking the rules of natural justice?

Hon Mr Cooke: You see, as I indicated to you yesterday, your party and the federal Liberal government made decisions on another approach when it came to wage and price controls.

Mr Tilson: Yes, but we are now, Mr Minister, we are not then.

Hon Mr Cooke: No, there is—

Mr Tilson: We are not long ago.

Hon Mr Cooke: Exactly the same principle is involved and the principle—

Mr Tilson: Let's talk about now. You are a new government.

Hon Mr Cooke: I cannot tell you how to ask your questions and if I can just take a couple of minutes to answer the question in the way that I would like to, the point being that there is a decision that governments have to make of what is in the public interest and what is the public good that has to be served. Your party and the Liberal Party made those types of decisions when it came to retroactive legislation dealing with wage and price controls and ripping up of contracts of many workers across this province. I did not agree with that approach because I did not

think it was necessary in that case and I did not think it was the appropriate thing to do, but you did.

Now, in this particular case we as a government have made a decision that this type of legislation is necessary. Those are judgement calls that governments have to make. You made them in the past and you proceeded and we have made this decision in this particular case and we are proceeding. You were judged by the approach that your government had taken in the past—and I am not saying specifically on that piece of legislation, but overall on the approach that governments take—and we will be judged as well. But that is the nature of the process. Each government has to make those decisions and I stick by this one. I think this is the approach that is necessary.

Mr Tilson: It will indeed be judged, Mr Minister. I guess my question is, making those comparisons you indicated that you opposed that type of legislation now; why do you not oppose it now? You opposed it then; why do you not oppose it now?

Hon Mr Cooke: I opposed the whole approach that was taken during, I think it was called the 6 and 5 program. Back then I opposed it because I did not believe it was going to solve the economic problems we were experiencing at the time. I am just indicating to you that one of the things that legislation did was retroactively rip up contracts between workers and unions and their employers, and it did that retroactively. Your government said you had to do that because it was going to serve the public good and it was absolutely necessary because the provincial government had the responsibility of looking at the needs of the entire province. Well, in this particular case we have made a judgement that this is necessary and that it is in the overall public interest to proceed.

Mr Tilson: Well, Mr Minister, that is what I am getting at. What caused you to change your mind? What facts do you have? What facts has your government obtained to make that decision? It is a judgement call, but presumably you obtained some facts to make it. Why have you changed your mind?

Hon Mr Cooke: I have not changed my mind when it comes to the need to protect tenants.

Mr Tilson: So you want to protect tenants but not landlords?

Hon Mr Cooke: We are talking about rent regulation here.

Mr Tilson: Yes, we are. We are talking about retroactivity. That is exactly—

Hon Mr Cooke: The permanent legislation obviously has to have some approaches that we have talked about. Yes, the need was there to bring in a temporary moratorium, which is what we have done. The statistics and the rent increases were raised by myself and my leader on regular occasions when we were in opposition and we had come to the conclusion when we were in opposition that there was a need to bring in strong rent control legislation. That is what we promised before the election and during the election and we delivered on it after the election.

1130

Mr Tilson: I think where your party and the PC party differ is that our party is concerned with all of the people. We are concerned with both tenants and landlords, where you have stated just now and have stated publicly in the past that your interest is the tenants. In fact, you have made a statement that you are not representing the landlords.

Hon Mr Cooke: No, to correct the member, that quote from my home community—and I spoke to the person after—was completely misleading. That was not the case. I can run through exactly what—

Mr Tilson: What did you say?

Hon Mr Cooke: Exactly what happened was that there was a meeting of landlords in my community and one of the questions from one of the landlords in the group was: "You've got 150 landlords here and we all oppose your legislation. Why aren't you representing us?" I said there could be a group of tenants in the room next door and some of those tenants would also indicate that they do not support my legislation because they do not think it has gone far enough. "I'm not here to represent landlords or tenants. I'm here to do what I think is necessary to provide basic, decent housing in the province." That was the approach that was taken at that meeting and, you know, obviously any short quotes can be used from anybody. That is the nature of the business.

Mr Tilson: I will leave that for a moment because of course we were told that this—

Hon Mr Cooke: Oh, I know what you were told. I was there.

Mr Tilson: Yes. Again, I would like to get back to my question. My question is that I would like to know the facts that you are relying on to make this retroactive decision.

Hon Mr Cooke: We will supply you. I told you, there are 110,000 units that are affected by the moratorium and we will give you the exact breakdown. It is 30,000 approximately that are phase-ins and the balance are applications, and also part of that is conditional orders. We will give you the breakdown first thing this afternoon, but those are the numbers.

Mr Tilson: I guess that is what I am getting at of course, that you have those sets of facts. But there are other facts, some of which have been read into the record by Ms Poole.

Hon Mr Cooke: Exactly. She went for the briefing and she got those statistics.

Mr Tilson: The facts that have been read into the record, Mr Minister, are that there are a large number of people who will be going bankrupt, who will be losing their jobs because of your retroactive legislation. Those facts obviously were not considered by you when you put forward Bill 4. Now that you have had an opportunity to hear those facts, and not just the facts that Ms Poole has read into the record but the facts of this committee—I am sure you have been briefed on that, I am sure you have probably read Hansard as to the number of people who are saying, "We're going bankrupt"—are you prepared to

reconsider your position and take the retroactive feature out of this bill?

Hon Mr Cooke: There are a number of considerations to think about and one of the considerations is the need to make sure that we do not lose more of our affordable housing, which is exactly the difficulty if we do not act. And yes, I have taken into consideration, in developing the policy, all aspects of the effect of the policy and I came to the conclusion that 1 October was the appropriate date to include in Bill 4. It is a date that I put in the legislation when I introduced it on 28 November and we will continue to disagree about the real impact of Bill 4. I believe that there are several other economic factors that are playing very considerably on all businesses in this province and you know, I would look to Ottawa for some of those effects.

Mr Tilson: These facts were not available to you when you made your decision, when Bill 4 was—

Hon Mr Cooke: What facts are you referring to? The fact that there have been some landlords coming to you and saying they are going to go bankrupt? Well, you know that is not necessarily my view of a fact.

Mr Tilson: Mr Chair, again to the minister, the facts have been presented to this committee, unrefuted facts, that these people are saying they are going to go bankrupt.

Hon Mr Cooke: I do not necessarily agree with that.

Mr Tilson: You disagree with those statements. Is that what you are telling us?

Hon Mr Cooke: I did not say that. I do not know how, on the basis of people coming before the committee saying they are going to go bankrupt and saying it is going to be Bill 4 that makes them go bankrupt, how that is a fact. We do not know that.

Mr Tilson: What are they, fairy stories?

Hon Mr Cooke: We do not know that. Have you gone and examined books and taken a look at whether this is the case?

Mr Tilson: The facts that have been presented to this committee are that these people have made an application for an order. They have spent the money. They have put mortgages on their house. They put mortgages on their own houses and on their buildings. The expenditures have been made. They have obtained the approval of the tenants. Those orders are null and void. Those are facts. They are not fairy tales. And as a result of those facts, they cannot make their mortgage payments on either their apartment buildings or their houses. Those are facts. They are going to be put out of not only their apartment buildings, but their houses. Those are not fairy tales. My question to you is, having heard that type of information, are you prepared to reconsider your position on retroactivity in this bill?

Hon Mr Cooke: And I am telling you that we will continue to disagree about the impact of Bill 4 on landlords in this province. I do not agree with the position that you have taken. I do not agree that Bill 4 is the cause of all the economic problems that landlords are experiencing in this province. We will not agree on that. I am not prepared to change the 1 October date. I have indicated that several times yesterday and today.

Mr Tilson: Well, I know Ms Poole. It is not going to prevent Ms Poole from making her amendment, and it sounds like it is going to lose before we even vote on it as a result of that last statement the minister has made. I can assure you that if Ms Poole's amendment has been made, the PC party will be making an amendment, and it sounds like we are going to lose that as well. But so be it. That is the way it appears this government is going to operate.

This is my final question, Mr Chairman, again dealing with retroactivity. These individuals, these people who are coming to us and saying that they are going to sustain substantial losses, that they are going to go bankrupt, you have made a statement that you do not necessarily believe that that is attributable to Bill 4. They are saying that they are going to go bankrupt, that they are going to sustain major losses. If Bill 4 is passed with very little amendment and these people again come in and can produce further facts that they hopefully will not have gone bankrupt but perhaps they can say, "We're on the verge of bankruptcy," and they can produce facts attributing it to—in other words, they will show you their books, and I am sure many of them will; they would probably do it right now if we extended these hearings—if they will produce these books to you, would you provide them with financial assistance to allow for their losses?

Hon Mr Cooke: Mr Chair, we are prepared to develop a permanent system of rent control in this province that will address some of the concerns you have expressed and some of the concerns that landlords have expressed as well. That commitment I have made. We already did, as you will recall, put some additional money into another program called the low-rise rehab program, which certainly has been a very successful program in the past and is expected to be a very successful program in the future as well. So those are the limits of the involvement of the government in terms of direct subsidy to the private sector.

Mr Tilson: I appreciate that drop in the bucket, but again, I am referring specifically to the implications of this retroactive feature of the bill.

Hon Mr Cooke: We do not agree on the implications of Bill 4, so the more often you say it, that does not mean it is going to make it more true. I do not agree. We have a fundamental difference of opinion on the effects of Bill 4. I believe it has the effect of stabilizing the market, protecting tenants while we develop the permanent system. That is the purpose of it and I believe that is the effect of it.

Mr Tilson: Well, then I wish you well, sir, when we start reading about powers of sale and mortgage foreclosures.

Hon Mr Cooke: I have been reading about that already, about a lot of homeowners in this province and a lot of businesses in this province that have been experiencing these problems because of economic policies that are set in Ottawa.

Mr Tilson: You are going to read a lot more because of Bill 4. Mr Chair, those are my questions.

1140

Mr Turnbull: Minister, I have to take issue with some of your last statements. You said that with respect to the

so-called 6 and 5 legislation which was brought in by the federal Liberals, first of—

The Chair: We are going to deal with subsections 100b(1), (2) and (3), right?

Mr Turnbull: Yes, this has respect to the retroactive aspect of it. You will recall that all provincial governments across Canada opted into that program and your party objected to it when it was voted on in the provincial Legislature, as I believe. The legislation was wage and price controls.

Hon Mr Cooke: Retroactive on prices?

Mr Turnbull: The only retroactivity on wages was with those where there was a collective agreement—well, let's say it was a three-year agreement. They were not allowed to get the amount in the future from the date of introduction of the bill and not allowed to get that amount which they had negotiated for. But by the same token, while they were not getting that increase, they were also not having any increases in the prices of items.

Hon Mr Cooke: So you would not oppose, then, the section of our bill that affects phase-ins, because that is future rent increases.

Mr Turnbull: What I am saying is, you are not bringing in any legislation to offset the negative impact, you will recall that, as I said, wage and price controls, to the extent that people were not getting rises in their wages that they had already negotiated, but they had not spent money. Under this rent review, you have to have substantially completed the work, which means that you have to have spent the money.

You have brought forward nothing to date to protect these people who have spent the money. And with respect to your statement that you have no facts about the impact of people going bankrupt and it is just stories that people have told, I moved in this committee to get expert testimony from the Trust Companies Association of Canada and your people voted it down. They did not want to hear expert testimony from the association of the trust companies that have the largest share in mortgages.

Now, Minister, I have been told by a senior executive of one of the large trust companies in Canada—and he was reluctant to come forward with this information—that he was concerned that they may end up being one of the largest residential property owners in this province as a result of this legislation, and he did not want to come forward. Do you know why? Because he was worried about the run on his company's shares because of the impact, because they were taking them in at less than the value of the mortgage they have. And your party refused to have expert testimony to come forward and at least tell us the measure of the problem. You are saying you do not have any evidence. Of course you do not have any evidence. Your party refused to accept any evidence.

Ms Poole: First of all, I would like to ask the ministry, when it gives us those statistics about applications that are caught in the retroactivity, if we would have a breakdown. That is what I did not receive at the briefing session that the minister referred to back in December. I would like a breakdown as to what applications were for capital expenditures,

which ones for phase-ins, which ones for conditional orders; also the dates of those applications—not specific dates, as you can appreciate, but the range of dates.

Hon Mr Cooke: Again, I will get as much of that information as possible for you. The range of dates is pretty clear. We are talking about after 1 October. You are not talking about years; you are talking over a period of months. But we will get as much information for you as we have. Not all of the statistical information that would be helpful is collected, so we will get as much of it as we can.

Ms Poole: Mr Chair, I have a problem with what the minister is talking about. He is saying it does not involve a long time and many people out there across the province are confused about the retroactivity. They think the retroactivity is till 1 October, and it is not. We are talking 1 October rent increases, and the minister knows as well as I do and as well as you do, Mr Chair, and every member of this committee should know that, that in order to get a 1 October increase you must have filed your application with rent review at least by 1 July 1990. If it is capital repairs you are talking about, they have to be substantively completed before you even apply. So we are not talking about six weeks of retroactivity.

The newspapers, which I gather have not done their homework on this issue, have written that the retroactivity covers capital expenditures made between 1 October and 28 November. Let me dispel any myths or illusions about that; that is not what we are saying. We are talking about matters that occurred far in advance of any election call, and the implication that there was a run on applications because of the election call is completely erroneous. A landlord would have to have applied by no later than 1 July in order to receive a 1 October increase.

Second, the minister has made a couple of comments that I simply have to refute. One is that in dealing with the bankruptcies, the minister has told me when we have talked that he feels a lot of these bankruptcies are related to economic conditions and the recession, and in committee today he has blamed it on the federal Conservative party and their high interest rates. It has not been my practice to defend Brian Mulroney, heaven knows, I think this is the first time I have ever said anything positive in that regard—

The Chair: Careful, you are on shaky ground.

Ms Poole: —but to lay this at his door, to me that is totally misleading. We have had witnesses who were unionists, Mr Minister, who have come before us and told us about layoffs and bankruptcies in their area. And we have asked them specifically, how much of this is seasonal, the fact that the trades and suppliers usually are not as busy in winter months as they are at other times of the year? How much of this is economic, due to the downturn in the economy? And we asked how much they attribute to Bill 4. One of the witnesses we had gave us a figure. He said 60% of the employment in their sector was directly attributed to Bill 4.

Now, I cannot see how you can say that it is all due to the recession. There is no doubt that some people will go bankrupt because of the recession, and that is the major cause, but not the witnesses that were coming before us.

They said in no uncertain terms that it was Bill 4 that was causing the difficulties.

The final point I would like to make involves going back to the wage and price control legislation which was introduced by the federal Liberals, as the minister said. He said he did not agree with the retroactivity on it, but—

The Chair: This is the last time we are going to talk about the 1975 wage and price controls.

Mr Tilson: I certainly hope so.

Ms Poole: If anybody from any party wishes to have me ask—

The Chair: And this is the last time.

Ms Poole: —or include their comments in mine, please pass it now and I will make sure it gets said, otherwise—

Mr Mammoliti: Let them know it was one of my contracts that got affected by it.

Ms Poole: Okay, I am very firmly opposed to this because it affected George and his contract, and in keeping with my policy of being nice to George so he will feel good when he votes for my amendments, I would like to make that point. But Minister, I really am having trouble with consistency here, with your consistency, not mine. You have said you did not agree with the retroactivity but it was necessary, and then when Mr Tilson asked you about that—

Hon Mr Cooke: I do not think I said that, but go ahead.

Ms Poole: Well, that is what you said. I copied down your words exactly, and we can prove it by Hansard once it is available.

Hon Mr Cooke: Good, okay.

Ms Poole: But then when Mr Tilson asked you about those words you said, well, you were opposed to the whole approach.

Hon Mr Cooke: Exactly.

Ms Poole: Now, on the one hand you were saying that you are opposed to the retroactivity, and now you are saying, “Well, yes, this is the same thing but I am no longer opposed to it.”

Hon Mr Cooke: That is how you describe it. That is not how I see it, but anyway, that is fine.

Ms Poole: That is not only how I see it, that is how it is going to appear on the record. At least have some consistency. And I mean you, Minister, and the Premier.

Hon Mr Cooke: We did not vote for it on second reading and then against it on third reading did we, anyway?

Ms Poole: That is your problem, Mr Minister. Do not ask me to revisit how you voted on things. We are talking about how we voted and why we voted. But as far as I am concerned, what you are basically saying is, “I can rely on precedent, which I did not agree with at the time, but I am relying on it to justify why I am doing this.” And it does not hold water. It just does not make sense. You are basically saying two wrongs make a right. It does not matter if it is unfair because it is only interim, and after all if it is

temporary let's not worry about whether it is fair. I have a real problem with that approach.

The Chair: Okay, thank you. That completes the list of members who wish to discuss subsections 100b(1), (2) and (3). Any further questions, comments or amendments? Ms Poole.

Ms Poole: Yes, Mr Chair, due to the hour I am going to suggest that I will read my amendment into the record and then we would entertain debate on it when we come back, if that is satisfactory.

The Chair: That sounds reasonable.

Ms Poole moves that subsections 100b(1) and (2) of the act as set out in section 8 of the bill be struck out and the following substituted:

"(1) Subject to subsection (2), this part applies to every application for rent increases filed after the 28th day of November 1990.

"This part does not apply to an application filed on or before the day that is 30 days after the Residential Rent Regulation Amendment Act, 1991, receives royal assent if the application,

"(a) is made under section 86 of the act, and

"(b) applies only to capital repairs in respect of which the landlord paid or owed money on before the 28th day of November 1990 for work that has been done."

Ms Poole has moved an amendment to section 8. I believe it has been suggested that we table the amendment for now and that when we return at 2 pm we will have full debate and then we will vote on the amendment. Is that the consensus of the committee? Thank you. The standing committee on general government is adjourned until 2 pm.

The committee recessed at 1153.

AFTERNOON SITTING

The committee resumed at 1413.

The Chair: Prior to the recess we were discussing section 8, section 100b and after lengthy discussion, which took most of the morning, Mrs Poole moved an amendment to section 8, 100b (1) and (2). It was decided at that time that we would reserve debate on this amendment until this afternoon. So the Chair will make a list of the speakers wishing to debate Mrs Poole's amendment and we will give Mrs Poole the opportunity to explain her motion and why she is making the motion. Mrs Poole.

Ms Poole: Thank you, Mr Chair, for giving me an opportunity to explain my motion. Now, if I could just have an opportunity to find my motion then we will be in good order.

We have had a considerable amount of discussion this morning on the retroactivity of the bill. The basic premise of the amendment that I have placed before you is to change the provisions of the particular section to state that it applies to applications for rent increases which were filed basically on or prior to 28 November 1990, which is the date that the government introduced the legislation.

The second part of this amendment applies to the fact that there may have been landlords who did not apply on or prior to 28 November 1990 and yet incurred expenses for major capital repairs.

We have limited our motion and this—by the way, I would explain for members' benefit that this motion, this amendment specifically refers to the capital expenditures, not phase-ins, so we are only dealing with one section of retroactivity here.

Our concern was that if a landlord had actually spent money on major capital work with good intentions, bona fide under the laws of the land, that the landlord should not be penalized after the fact and be notified that the rules had changed even though he or she was not aware of the change at the time.

So we have covered capital work that was done up to 28 November 1990 but not capital work that was done subsequent to that date. Obviously, this will not satisfy all landlords because some landlords signed contracts on or prior to 28 November 1990 for which they are legally liable, whether or not they had the work done. Those landlords, unfortunately, will have to take their cases to court in order to prove that they should not be liable.

We did not try to protect everybody with this amendment. We tried to protect those who had actually incurred expenses for capital repairs that were done and that would be in financial jeopardy if not reimbursed.

I think it is a fairly moderate and, in the true liberal spirit, a compromise proposal. Like I say, I am sure that there are many landlords who would resent the fact that it did not cover up until the date of proclamation. On the other hand, as the minister has pointed out, it is extremely difficult to pick a day that is fair to all. I would submit, though, that this date is fairer than the 1 October rent increases chosen for the bill. I do not feel that it interferes with the spirit of the legislation which is to call for a

moratorium period, but instead that it will offer an opportunity for fairness and justice for those who acted within the laws of the land.

Those are my initial comments, Mr Chair.

Mr Tilson: Mr Turnbull and I will be supporting this amendment.

I think that our position has been throughout these hearings, as we have indicated, that we would prefer the date of proclamation as being a more realistic approach as to when the bill should become law. However, our party is always prepared to enter into compromise, because I can see—obviously the minister has expressed his view this morning that he feels very strongly about the retroactive aspect, and I do not think it is a matter of compromise. I think it is looking at, as I indicated this morning, some of the facts that have been presented.

As I understand it, if under section 86 a landlord and a tenant have agreed that certain matters should be done, and that is prior to 28 November, that would apply, as I understand the proposed amendment, and that is exactly what has happened. There have been several instances that have been presented to these hearings where that situation has occurred, where the landlord has sought the approval of the tenants, it has been done with the approval of the tenants and the work indeed has been done.

If the retroactive section is allowed to continue under Bill 4, even though the tenants have wanted particular work to be done and have agreed to it, they will not be done, and this amendment solves that issue.

We have had landlords come to us and say the work has been done, the work has been paid for. The work has been done and mortgages have been taken out on their house, mortgages have been taken out on their building, other financial commitments have been made out of their own personal resources for the purposes of doing this work, and that has been done based on the existing legislation. This amendment covers that. The proposed Bill 4 legislation does not, and I think that the Liberal Party has zeroed in on two specific areas which our party wholeheartedly supports.

1420

Mr Brown: I look on this amendment as being a minimal amendment, as being the bottom line, as being the sort of last step in fairness. We have discussed this issue for quite a while. Committee members have heard a tremendous number of landlords come before us. We have heard tenants come before us who know that if the landlord does not get the increase that they agreed to, that they are going to be in great difficulty.

Over three weeks, as we travelled throughout the province to various locations, we heard both tenants and landlords tell us that this needed to happen, that the work that the landlord did was necessary. It was not a whirlpool, it was not a marble lobby, it was necessary work that had to be done and the tenants wanted it done, and it is just totally unreasonable when they had agreed to it, in many cases, to not pass through that cost.

My colleague this morning read into the record some of the testimony from people, from tenants and from landlords. This does not solve all the problems with retroactivity, but it does seem far fairer than what the government is proposing to do.

We are really having difficulty with this issue. We are having trouble wondering whether there was anybody on the committee but Liberals and Conservatives, because we all heard this, and yet on the other side there is just no noise at all. They do not want to speak to this issue; they do not want to talk about this issue; they do not want to talk about how this government will help big business but will not help individuals, where they think big is better.

I am very, very troubled by the fact that our government would so blindly pursue such an avenue when all the evidence the committee has heard—well, most of the evidence the committee has heard—has said to this committee that this does not make sense, this is not fair, this is not just. We certainly believe that the government has the right to change the law, and certainly that is what a democracy is about. But a democracy is not about reaching back into the past. That is not what a democracy is about, and that is what this amendment addresses. What we are saying is that this is far fairer; this makes more sense and should be followed.

We really find it difficult to believe that needed repairs to buildings—in the minister's addresses, he said over and over again, "I have always been in favour of capital expenditures being passed through," and that is what this amendment talks about. Why was it okay before 1 October, and presumably will be okay once Bill 4 expires, but it is not okay now, or was not okay for the landlord who spent the money in August or July or, in some cases, the first of the year, the first of last year? I do not understand the fairness. I do not understand why we help Varity Corp, why we help Algoma Steel, why we help big corporations and we will not help the little landlord, the fellow who has mortgaged his house to do these repairs.

We have heard over on the other side that—

Interjection.

Mr Brown: Yes. We are hoping they will support us, so I will be nice. These are real people. There are real people affected here. It is real people who are going to lose their pensions. It is real people who are going to lose the investments of all their savings. It is real people, and they did these things in good faith; they did these things according to the rules. They made these investments for the betterment of the homes of the tenants. They did all these things properly and they are having a government just take them away from them. That is what is happening. We should make no mistake about what is happening out there in the rental market, what is happening to landlords who have invested in their future and in the future of this province with their sweat equity that they will never see a dime for. That is what is happening and that is what this amendment is addressing.

I find it incomprehensible that anyone could not support this amendment after hearing what we have heard. I want you to think about what we have been doing for three

weeks. I want you to think about the people who have sat over here or sat in Sudbury or sat in Ottawa or sat in Windsor and told us these things. It is reality. It is no myth. It is not hypothetical. It is not about the greater good; it is about real people, real individuals. We know that the big companies are going to be okay in this market. They told us that. They do not like it, but the big guy is going to be just fine. His profits are going to be down, but it is the little guy, it is the ma-and-pa operation that is in really big trouble. From our party's perspective, we just cannot imagine that somebody who improves the homes of tenants, somebody who makes life better for tenants, is going to be penalized and lose, in many cases, his or her life savings.

I saw somewhere or other a paper that said on the same sheet that this legislation is supported by tenants' associations and OPSEU. I thought that was interesting. I was interested, and I have mentioned this before in this committee a number of times, that the NDP seems to think that being a landlord is a great investment, that it is super to be a landlord and you are going to make lots of money—"You should be in this business; the return is great." I suggested a couple of times that if they believe it, if that is what they believe and if OPSEU wants to support this legislation, that is great.

They have billions of dollars of pension funds that are administered in conjunction with the province of Ontario, and Mr Cooke knows all about that legislation. He knows there are billions of dollars. I wonder, Mr Cooke, just as a question, would you support having the pension funds of OPSEU invested in real estate in this province?

Hon Mr Cooke: I do not understand your point. I think that many pension funds in this province already are investing in real estate in this province. I would certainly like to see pension funds used to a greater extent for non-profit and co-op housing, but I know OMERS, which comes under the Ministry of Municipal Affairs, certainly have invested in housing across the province.

Mr Brown: What I am asking is, would you suggest to OPSEU or to the public pension plans that they invest in Ontario real estate?

Hon Mr Cooke: What is your point? Pension funds already do that. OMERS has done it and I do not know about the—I know about OMERS because it comes under my ministry, but I do not know whether the Ontario public service pension plan has invested in private sector real estate or not. I do not know.

Mr Brown: Well, maybe we can pursue—

Ms Parrish: I actually know the answer to that question but I am not sure if—I do not want to intervene. Up until public sector pension legislation was changed, as you know, the public sector pensions for folks like us were invested essentially in the consolidated revenue fund of Ontario. Under the new system, there is a pension board whose president is an old colleague of mine, Jim Wilbee, who was the superintendent of insurance, and they now have the ability to invest in other market securities, including real estate, and it is sort of phased in over time. So they now have the ability, which they did not have in the past,

to invest in real estate, as well as in the markets generally, in the securities market as well.

1430

Mr Brown: Yes, I am quite aware of that and it seems to me Mr Cooke is also, as we debated that in the last Parliament. My real question is, is being a landlord in this province a good investment? What, Minister, is the rate of return in this province for a landlord?

Hon Mr Cooke: I will respond, Mr Chairman, at the appropriate time. I would certainly like to make some comments about the amendment.

The Chair: Sure.

Mr Brown: Therefore, if it is a good investment, would he recommend to the newly freed-up public service pension plan to make investments in the real estate in this province? We had a presenter here who talked about real estate investments, an investment broker, and he told us that institutional investors had abandoned this sector, that they were not about to put their money into Ontario residential real estate. He told us that big corporations are withdrawing. He told us that the only people really left creating and maintaining—well, creating—rental housing are the small individual landlords, the ma-and-pa type operation, the group of friends, the nine steelworkers from Hamilton who invest in a building with their life savings. Those are the only people in this province to do it because they do it with their sweat equity; they do it with their own hands; they keep the costs to a minimum and that is how they do it.

The discussion here is really around investment—whether the retroactivity enhances the ability of, or the minister thinks that the retroactivity gives the right signal to business, gives the right signal to the small individual to help this province and create more housing, if this retroactivity helps any of those things. I would suggest to him that it does not. I would suggest that the retroactivity as expressed in the bill is a bad signal to business and at least this amendment somewhat mitigates that kind of investment in properties. I think I will leave it for now and you can move on to the next person, Mr Chairman.

Ms Poole: I think the bottom line with this amendment and this bill is whether the people of this province are going to have trust and have faith in government. I am not talking about this government at this particular point in time; I am talking about government. All members of this Legislature and all members of this committee have just gone through an election where I am sure you can appreciate the cynicism of the people and the general contempt for not only government but for all politicians. Sometimes I think we have given them good cause for that. I would not want to exacerbate that lack of faith and trust in government. As Mr Brown has just so eloquently put—Mr Brown, like that?

Mr Brown: I love it.

Ms Poole: Yes. I want Mr Brown's support as well as George's, but as he so eloquently put it, there are going to be a number of people who will not trust government and certainly will not trust this government if the retroactivity

affects them in the negative ways in which we have been informed it will. So I think that is the first important thing we will have to remember, our obligation to restore trust and faith in government. Secondly, we have had a number of comments throughout these hearings about how widespread the problem is or is not. And the reason this affects the retroactivity is because the retroactivity is a fairly strong weapon, if you will. It is certainly a very strong statement to make, that the situation in Ontario was at such a crisis pitch that the government had to take extraordinary actions by which to deal with it.

But the minister's own comments at the press conference when he announced the legislation back in November, his very own words were that it was an abuse by a few landlords and that this legislation was being put forward to correct that problem. Again I have to ask the question, if it is abuse by a few landlords, by some landlords—and I think there is no doubt about it; there are some landlords taking excessive advantage of the system—but if it is only abused by those few landlords, why so dramatic a provision in this legislation?

The final point I would like to make is actually in the form of a question. This morning, and I can appreciate it was only some three hours ago, we asked the ministry for statistics about how many applications were caught in the moratorium, a breakdown for whether they were by capital expenditure, phase-in, or whatever reason, the average rent increase; that type of breakdown. I would like to reiterate that I am not expecting miracles. If you do have that information right now, I would hope it could be tabled with the committee. If it is not available, I would suggest that we stand down the vote on this particular amendment until such time as we have those figures. So that is my suggestion.

Hon Mr Cooke: We have them for you and I just signed the letter which will go to the Chair, but I can read them to you.

The Chair: Yes. Go ahead, Minister.

Hon Mr Cooke: There are 23,204 units that—

Ms Poole: Mr Chair, could we have that distributed?

Ms Parrish: I am not sure—this is actually about the—this is a different one.

Hon Mr Cooke: Okay, this is statistics on the—

Ms Parrish: This is the money issue.

Hon Mr Cooke: —on the cost of the consultation. But I have the statistics on the numbers of units too, and it is fairly—

Ms Poole: I just wondered, if there were sufficient copies, if we could just have it as you read it. It just is easier.

Hon Mr Cooke: We are getting the copies for you. As soon as we get the—I have it written down here and I guess that is actually being prepared right now.

Ms Poole: Okay.

Hon Mr Cooke: But it is not that difficult. There are 23,204 units that were phase-ins that are affected, there are 3,739 units that were conditional orders and there are 74,557 units that were whole-building reviews.

Ms Poole: Could I have that again?

Hon Mr Cooke: That is 74,557. So the total is 101,500 units for first effective date of 1 October.

Ms Poole: For a first effective date after 1 October.

Hon Mr Cooke: Under our legislation that is how many units are affected.

Ms Poole: And how many applications would that represent?

Hon Mr Cooke: Well, I will get you that figure.

Ms Parrish: You will have to give me a few moments. It is probably around 1,000, but I will just—

Ms Poole: So that would be 1,000 applications.

Ms Parrish: It depends on how you treat a phase-in. You see, a phase-in is not normally treated as an application, if you know what I mean.

Hon Mr Cooke: Because phase-in is not a pending application, it is a—

Ms Poole: It is an order.

Hon Mr Cooke: It is an order. And just so that you have the information, if we accepted your amendment, the number of units that would be affected would be 8,673.

Ms Poole: So 8,673 units would be affected?

Hon Mr Cooke: Right.

Ms Parrish: They have an application date after 28 November. They are in the system; landlords have made an application after 28 November other than for a joint landlord-tenant application.

Ms Poole: Okay. So those are post 28 November.

Ms Parrish: That is applications.

Ms Poole: Applications.

Mr Tilson: That is over and above the 101.

Ms Poole: So they would not actually be caught by my amendment. Is that what you are saying?

1440

Ms Parrish: That is correct. Those would proceed.

Hon Mr Cooke: The 101,500 would proceed. The 8,673 would be applications that have come in since 28 November.

Ms Poole: And do we have information as to what the average rent increase was for those 101,500?

Hon Mr Cooke: No. You see, we will not have that. You know that phase-ins are 5% over and above the guideline.

Ms Poole: Yes.

Hon Mr Cooke: The other information—statistics are not kept on applications; the statistics are kept on decisions. So we cannot give you a breakdown on the 74,557, as I indicated this morning. We can only assume that the same type of information or the same types of statistics that have applied to past applications would apply as well to these so that, you know, we would have the range of rent increases that has existed under Bill 51.

Ms Poole: Yes. Well, the information that we have been, certainly, given by rent review and that we have been using on this committee is that from those applications going to rent review, the average increase was 11%, and

that overall, taking every unit in the province, whether or not they went to rent review, the average increase across the province was 5.8%.

Hon Mr Cooke: So you could probably take a look at the 74,557 whole-building reviews and apply that the average would be the same, would approximate the same average, that existed for orders in the past. I am not sure. I mean, you can disagree with me, but I am not sure that an average figure is particularly relevant in that we are looking at some of the other increases that were more offensive and resulted in some of the problems. But that is for you to decide and for others to decide.

Ms Poole: Well, I guess an average would only be relevant to the point that you could have taken care of the excessive abuses by simply putting a cap on.

Hon Mr Cooke: But then you would have the problem of retroactivity, which you are so upset about, and you would have the same problem with those landlords. If you put a cap on that was effective 1 October you would have the same problem of all the landlords who you claim are having financial difficulties as a result of my bill; those landlords would still have those difficulties. Since you are in principle opposed to the retroactive aspect of our legislation, then I am sure that in principle you could not support a cap because it would still have retroactivity in it.

Ms Poole: Yes. Actually, I was talking, Minister, just to clarify—I was referring to my later amendment, which we will get into, the cap on the capital expenditures.

Hon Mr Cooke: Yes, but what your amendment does is it would allow the 101,500 to go through without any restrictions and that would mean that we would have the same range of rent increases for the 74,557 under the whole-building reviews. We would have the same range that we have had for five years under Bill 51.

Ms Poole: Just to be perfectly correct, my amendment would only affect the 74,557 units under whole-building review. It would not affect either conditional orders or phase-ins; not this particular amendment. This amendment is only for the capital expenditures.

Hon Mr Cooke: Right, but I mean, your overall approach, you have other amendments that would affect those too, so the total package of your amendments would be to free up that 101,500.

The Chair: Okay. Any further debate? Seeing no further debate on Ms Poole's amendment—

Interjection: I think Mr Tilson has his hand up.

The Chair: Mr Tilson?

Mr Tilson: Mr Chair, you have to help me on procedure. Yesterday, I think it was, when you and Mr Cooke were not present, the question was raised on the legality of the retroactive feature of this bill and the fact that we have had comments made throughout these proceedings from different people suggesting that the bill—specifically the retroactive feature of the bill—is unconstitutional on perhaps other grounds as well. In fact, it has been drawn to our attention that a legal opinion has been provided—

Mr Mammoliti: On a point of order, Mr Chairman, we are being repetitive here. I am not too sure about the

ruling on this particular point of order but are we going to be repetitive, and if so, what are you going to do as the Chair when this happens?

The Chair: What am I going to do? Well—

Mr Owens: Resign, resign.

The Chair: Well—

Mr Tilson: It is unanimous.

The Chair: Yes. I have listened very carefully over the last few weeks to many of the things that the members have said and many of the things that the witnesses who have come before us have said, and it appears to me that the retroactivity portion of the bill has in fact been highly contentious on both sides, no matter where you stand on the issue, and this is the first time that I know of that we have actually dealt with subsections 100b (1), (2), (3), which deal with the retroactivity. We have been dealing with this for almost 42 minutes, and given the strong feelings and the fact that there is a substantive amendment that would actually replace the entire amendment, I did not think at the time that 42 minutes was excessive, but I am keeping an eye on the clock and we will listen to the concerns of all members. Thank you.

Mr Tilson: Thank you. To continue, we now have a—I cannot recall if it has been filed or not, but I think most of us have seen a legal opinion that has been presented to a particular group, and I also understand a press release has been issued by that particular group stating that they believe that this bill is unconstitutional on various grounds that have been given, and it is by a reputable law firm from the city of Toronto. The group has suggested that they were requesting the minister to make a reference on this specific legislation—and I am dealing specifically with the retroactive feature, Mr Chairman, so you know I am not veering from it, because that is specifically where the challenge was being made—and that if that reference was not made by the minister or by the ministry, that they would challenge the legislation if it was ever passed.

The point that I raised, which was set aside, hopefully so that the minister could be here to make his comments, dealt with this whole aspect, and you—just to tell you a little bit of what happened, we made requests that any legal opinions that had been made to the minister as to whether it is constitutional be presented to this committee. Mr Chairman, it has never been made quite clear to us what form that legal opinion is. The minister has commented in the House that it went past the Attorney General's department. I think it would be useful for us to know what form that was. Did the minister simply go to the legislative counsel and say, "Well, what do you think?" and did the legislative counsel say, "That's fine"? Or did he go to the Attorney General's department and ask some official, "Well, what do you think?" and did the Attorney General's representative say, "It's fine"? Or did he formally get a legal opinion in a letter form or a statement form such as we have seen from the particular group that has made it available to us?

Mr Chairman, that is in the form of a question to the minister. Notwithstanding whatever that is, I think that this committee should see whatever information the ministry

has, and I do not think there has been a formal motion made. I would like to make one requesting that the minister make whatever legal information he has available to this committee for its consideration. I suppose the difficulty is there is already—

The Chair: I do not think we are able to make such a motion at this time, Mr Tilson, but when you are finished your remarks, maybe the minister can help us to some extent and then when we finish dealing with subsections 100b (1), (2), (3), maybe at that particular time you—

Mr Tilson: That was my long way about getting to the question as to whether it was procedurally possible, and you said no.

Mr Mammoliti: On a point of order, Mr Chairman, perhaps Mr Tilson can explain what this has to do with the amendment at hand?

1450

The Chair: Mr Tilson, can you please explain what this has to do with the amendment?

Mr Tilson: I would be pleased to. I think that the whole issue of retroactivity, whether it be in the form it is in the bill or the form of the amendment, I think that this committee is totally irresponsible in not determining in its own mind whether the retroactive feature is unconstitutional. If we ignore it, I think that this committee is being irresponsible, and I think that this committee seeks expert opinion. We had Mr Thom come and Mr Thom gave us his comment on the residential tenancies. We are having a tax expert come to talk about the issue of taxation and we have a whole series of—that is why you have these committees, so that the committee can hear expert testimony from different sources. I do not think that a legal opinion is any different from any other type of evidence that this committee needs to consider. So that is the reason I think that those type of facts will be most useful for this committee to have before we make our report to the Legislature.

The Chair: Thank you, Mr Tilson. Maybe the minister might want to add some information at this time?

Hon Mr Cooke: Very briefly, Mr Chair. I can tell the members of the committee that there are really three things, I guess, that happen. One is that when the legislation is being drafted it goes through the regular process and the Attorney General's office reviews all legislation that the government produces, and there was that review that took place. Then we did ask for a written review, or legal opinion, from the AG's office which we have and we also had a legal opinion from the AG's office which was a review of the Fair Rental Policy Organization of Ontario's legal opinion. So those are the legal opinions that we have received in the ministry.

I certainly understand the argument that you are making in your request to table those legal opinions in the committee, but—now, I am not a lawyer, my background is social work. My understanding is your background is law, so you will understand better than I, but when a group indicates to you that they are going to take you to court, it is not very usual for a government, as it has not been usual for past governments—I remember having this type of discussion

and making these kinds of motions when I was in opposition, when your party was in power, and the line that I am going to use is exactly the same line that they used. It was appropriate then and it is appropriate now. The Attorney General—

Interjection.

Hon Mr Cooke: I was wrong back then. The Attorney General is our—

Interjections.

Hon Mr Cooke: The Attorney General offers us legal advice. We are their clients and we are not about to interfere with the client/lawyer relationship, especially when an organization in the province has made it very clear that they intend this matter to go to court. With respect to making a reference of our own of this legislation, you again would know much better than I, but to go through the legal process would mean that—and I can only assume that Fair Rental's suggestion would mean that they would not want Bill 4 to come into place until this has gone through the reference process and through a judgement through the courts—would basically mean that Bill 4 would never happen, because you know as well as I do that to go through and get to the Supreme Court, by the time a judgement occurred we would be a long way down the road. We are confident as a government that this legislation does not violate the Constitution of our nation. If we were not confident in that, it would not have been introduced in the first place and that is all I need to say about it.

Ms Poole: On a point of order, Mr Chairman, the minister has now admitted that was wrong in opposition. Will he admit that he is wrong now when he is in government?

The Chair: That is not a point of order. It is an interesting point.

Hon Mr Cooke: I have admitted that I was wrong once before.

Mr Tilson: Do not let it happen again.

Interjection: You were mistaken, right?

Hon Mr Cooke: That is twice more than you.

Mr Tilson: Mr Chairman, I guess my concern is that, first of all, this is not the first time that I have asked the minister for this information. In fact, it was suggested in the House in December that a reference be made, and if a reference was made at that time, it could have been over by now. We could have been heard in January. I am sure that Mr Hampton has got influence, that that was something—as a piece of legislation as important as this, that this matter could have been heard by now. So it is regrettable that we are still denying that process.

I guess my concern, Mr Chairman, is that I just look at the issue of the Sunday shopping legislation and how, if the committee—

Mr Owens: On a point of order, Mr Chairman.

The Chair: I was just going to get to that.

Mr Tilson: I thought perhaps you might, but—

The Chair: We have got to deal with Ms Poole's amendment, Mr Tilson.

Mr Mammoliti: Nice try, though. If you had been a lawyer—

Ms Poole: No Sunday shopping here.

The Chair: Ms Poole's amendment.

Ms Poole: No Sunday shopping here, Mr Tilson.

Mr Tilson: Mr Chairman, my concern is that I would place the Chair on notice that I will be asking this committee to formally request from the minister the legal opinions, and if not, to seek its own legal opinion. I say that—

The Chair: We have been put on notice that you are going to be requesting this information at a different point in time, and now I must refer you back to Ms Poole's amendment.

Mr Tilson: Yes. I say that because it is relevant, Mr Chair, because if the amendment is passed and the whole issue of retroactivity—if this committee comes to the conclusion that retroactivity is unconstitutional, then really this whole subject should not be voted on until that opinion has been given to this committee.

The Chair: Thank you, Mr Tilson. Ms Poole has moved—

Mr Brown: Mr Chairman, the minister was going to speak to some questions that I had regarding investment. I asked about what rate of return you thought was appropriate in this industry.

Ms Poole: And we talked about pension funds.

Mr Brown: We talked about pension funds.

Hon Mr Cooke: I assumed, Mr Brown, that your comments were making a particular point which I do not happen to agree with. I mean, I do not think that there is a specific response to your questions. Pension funds want to invest in residential properties in this province. They have done so in the past and they will do so in the future, and I certainly encourage them to.

Mr Brown: That was one question. The other question was, what do you think is an appropriate rate of return in this industry?

Hon Mr Cooke: What specifically—that particular matter was discussed in detail with Bill 51. It will be discussed in detail, I am sure, as we go through the consultation process for the permanent legislation. I am not sure that I understand the—

Mr Brown: Well, the issue revolves around investor confidence, it revolves around what retroactivity does. All these things interrelate. You cannot take one without taking some of the others. And we are over here getting very nervous thinking that, given some of the statements by the Premier before the election and some of the statements—I am not going to pursue that; I see you roll your eyes—the government does not think that they have any reason whatever to encourage private investment in rental housing. I am just trying to get at whether you think a rate of return is appropriate and what it is and if you think institutional investors will be in this market. If you do not want to answer, that is fine, we will discuss this some other time.

Hon Mr Cooke: Well, good. We will discuss it some other time. But when you went through the process of

developing Bill 51, that was one of the whole concepts behind Bill 51.

Mr Brown: I did not go through that.

Hon Mr Cooke: When your government did.

Mr Brown: My government did not.

Hon Mr Cooke: Well, the Liberal government did develop Bill 51.

Mr Brown: Okay.

Hon Mr Cooke: Well, okay.

Mr Brown: I was not there.

Hon Mr Cooke: I do not blame you for trying to dissociate yourself with that government, but—

Mr Mammoliti: They are a bunch of seals anyway.

Hon Mr Cooke: That was certainly one of the issues that was raised, but I do not agree—the whole idea of phase-ins is one of the aspects of Bill 51 that deals with that issue, and you can see how Bill 51 treated phase-ins, how it treated rate of return, that there were all sorts of difficulties that resulted, and I do not buy into that philosophy. We are developing a piece of rent control legislation and we are going to try in the long term, through the consultation process, to have a very fair system. But it is not going to be the type of system with the same philosophy that Bill 51 had.

1500

The only other comment, Mr Chairman, that I would make on this particular amendment, because I am not going to go on at length about it, is that the way that you would hear, the way that the Liberals and the Conservatives are talking about Ms Poole's amendment, you would think that by adopting this amendment, there are simply no victims. It is all win and no lose. The fact of the matter is that you have got to talk about the victims of your amendment and the people that will lose protection that have protection under Bill 4.

And you know, as we went through, there are 101,500 units. So you cannot talk about your amendment in isolation. It is a balance, and that is what we have attempted to do with Bill 4. We have looked at what will happen if we do not bring in a moratorium, and we look at the impact of your amendment and I cannot support your amendment. If we were to accept your amendment, there would be the 101,500 plus the 130,000 that are already going through even under our bill. We would be up to nearly 250,000 units in this province of rental housing that would go through under the old system, which we in our party just simply cannot support.

The Chair: Ms Poole followed by Mr Turnbull, if Mr Brown has finished.

Mr Brown: For now, Mr Chair.

Ms Poole: The minister has talked about victims, he has talked about the losers with this amendment. I would like to say to you, Minister, that Bill 4 is not going to be the solution to all the problems. It has created a whole set of new problems. But yesterday, just prior to your arrival at the committee, I had talked about some of the ways in which you as minister had the power to help some of those

victims, because a lot of the people you are talking about here in Bill 4 cannot afford the rent they are already paying. Those 3,000 tenants who signed the petition that Ms Gardner brought in, many of them cannot pay the rent they are paying now, no matter what the amount is. They just simply do not have the resources. And Bill 4 does not do anything for them. When you talk about those people as victims of this retroactivity, they are not victims of this retroactivity, they are victims because their economic circumstances do not allow them to afford accommodation in this province.

Hon Mr Cooke: So the government should just write a cheque?

Ms Poole: No. What I was suggesting—

Hon Mr Cooke: Typical Liberal response.

Ms Poole: What I was suggesting is that the minister, if he truly was concerned about this situation, something he could have done extremely quickly and very expeditiously at relatively little cost was to increase the number of in situ placements.

Hon Mr Cooke: There was nothing in your budget that your government brought in last year to even fund that type of thing, and you will know that my ministry is operating under your budget until we can bring in a new budget. So you did not think that that was a priority last year. Now, you said it would be a priority for you, but it was your government and you brought not one—in fact, you killed any additional supply programs. So, you know, do not lecture me about solving the housing problems.

Ms Poole: Well, let's be quite accurate about this.

Hon Mr Cooke: We are developing a strategy.

Ms Poole: Let's be quite accurate about this, Minister. Under our government, the number of in situ placements did increase and increase dramatically. What I am saying is that with the commitments you have expressed in the House and in this Legislature over a number of years, that this, as a brand-new government, as a brand-new minister, was something that you could have done to help these victims.

Hon Mr Cooke: There was a big increase. As you will remember, there was a big increase under the Minister of Community and Social Services for assisting people on social assistance with their rents.

Ms Poole: Yes, and to be fair again, Minister, you will acknowledge that that same type of dramatic increase was given under our government and it was our government which initiated the Social Assistance Review Committee amendments which allowed those increases to happen.

The Chair: We are straying a little bit.

Ms Poole: I am sorry, Mr Chair. I apologize but it does make me somewhat upset when the minister talks about victims as though it is our amendment which is going to create victims. Those victims are there and nothing is being done to help them. So if you really, truly want to help those victims, then you are going to have to go beyond this because this is not going to help.

Hon Mr Cooke: We intend to.

The Chair: Thank you. I have on the list Mr Turnbull and Mr Brown.

Mr Turnbull: Minister, you speak about victims. It is exactly the same situation. You are saying the Liberals, it is a typical Liberal response to help: give government money to those people in most need. It is also a typically Conservative response that the people who are in need should be addressed, not this rubbish legislation. You speak about victims. In your opening statement to this committee, you talked about these outrageous rent increases and you gave a list of locations with high percentages. We found out from your ministry they account for 24 units in the province, which shows what tripe you are talking.

Mr Mammoliti: What does "tripe" mean?

Ms Poole: Mr Chair, George has asked for a definition of tripe. I think that "pap" would do very well, and we have already talked about pap on this committee.

The Chair: All right.

Mr Mammoliti: So what does "pap" mean?

Mr Abel: Why do you not look it up in the dictionary, George? It is a real word.

The Chair: Okay. Well, we will make up a list of those words that have to be described. Mr Turnbull followed by Mr Brown.

Mr Brown: I will just be very quick, Mr Chair. I was just interested—the minister piqued my interest when he mentioned that they could not fund the in situ placements because there was not enough money left in the budget from the former government. I think that is passing strange when the budget deficit is increased \$2.2 billion because of their efforts. They can do anything they want. They do not have to stay within that guideline.

Hon Mr Cooke: You know that is not true.

Mr Brown: It is perfectly correct. And Pink Floyd's budget will prove it when we can actually see the numbers.

The Chair: I think we have completed the list of speakers. Ms Poole.

Ms Poole: Mr Chair, I did want a recorded vote on his amendment together with George, who of course will be supporting us, and the Conservatives have indicated their support for our amendment. It looks like it might be a tie vote, so I would like to request a 20-minute adjournment so we can find Mr Mahoney wherever he is in this building and bring him down for the vote.

The Chair: You are requesting an adjournment? I am informed by the clerk that if we do that, as soon as we come back we are going to have to vote.

Ms Poole: That is fine. No problem.

The Chair: So we will convene again at exactly—

Interjection: Here he is.

The Chair: I guess we do not have to adjourn.

Ms Poole: Well, Mr Chair, could I have 20 minutes so we can find Mr Mahoney?

The Chair: The standing committee on general government is adjourned until exactly 3:30.

The committee recessed at 1510.

1538

The Chair: I see a quorum. It was agreed that when we came back we would vote on Ms Poole's amendment. We are going to have a recorded vote, which was requested by Mr Brown, so the clerk will help.

The committee divided on Ms Poole's motion, which was negated on the following vote:

Ayes—5

Brown, Mahoney, Poole, Tilson, Turnbull.

Nays—6

Abel, Harrington, Huget, Mammoliti, Owens, M. Ward.

The Chair: The motion is defeated.

Mr Tilson: Mr Chairman, if I could make the motion that I had placed the committee on notice for during the debate on the amendment at this time?

1540

The Chair: Mr Tilson moves that the ministry table the two opinions received from the Attorney General in regard to the constitutionality of Bill 4 to this committee.

Is that correct, we want that information tabled to this committee?

Mr Tilson: Yes.

The Chair: Any discussion on the motion? Mr Tilson.

Mr Tilson: Yes, Mr Chairman, since I appeared to have been out of the order before, I would like to indicate that I think that this information is paramount. I do not think that legal information should be treated any differently from engineering advice, taxation advice, planning advice, economic advice. It is no different, and the suggestion that has been made is that it is different. I think that if this committee is going to make intelligent recommendations to the Legislature, if it has been suggested by not just one witness but a number of witnesses, not just the large landlord or a group of large landlords, but small landlords, small individual landlords, the little man, I think that this committee has an obligation to pursue that and be satisfied that if it feels that this bill is illegal, that that information be passed on as a recommendation to the Legislature to perhaps review the bill to remove that problem.

So, accordingly, Mr Chairman, I believe that this motion is—there is nothing difficult about it and there should not be anything unusual about it either.

Ms Poole: We will be supporting the Conservative motion. I would perhaps clarify that what we are asking for is a copy of the legal opinions which the minister referred to, that the Ministry of Housing obtained back when they drafted Bill 4. We are not referring to the legal opinion about the constitutionality that is being challenged by the Fair Rental Policy Organization of Ontario, as outlined in their press conference last week. They are two entirely separate matters, so—

The Chair: We will have to re-read the motion to make sure that we are voting on exactly what we think we are voting on, so possibly the clerk can work with Mr Tilson as we are discussing this matter, so that we understand the wording.

Mr Tilson: Mr Chair, if the clerk wants to rework the—it was hastily scrawled out and that is exactly the intent; the motion is to receive the legal opinions that the minister has referred to.

The Chair: Right.

Hon Mr Cooke: I am not quite sure what the member for Eglinton is referring to because it was not a written legal opinion when the bill was drafted. There was the regular process that the bill goes through.

Ms Poole: Well, yesterday we were told that the ministry had an opinion on the constitutionality and the legality of this provision prior to the legislation being tabled, and that is what we were requesting, a copy of that legal opinion.

Hon Mr Cooke: My understanding is that when the bill went through the process, just as I referred to a few minutes ago when Mr Tilson was speaking, the bill went through the regular process. The Attorney General looks at the legislation, all legislation. Subsequent to that there was a written legal opinion that we sought from the AG. As for the legal opinion that Fair Rental released, we asked for an opinion from the AG in response to that as well. Those are the only two written responses that we have, both of those after the bill was tabled.

Mr Tilson: This government has boasted in the House that it is a new government, that it is a new philosophy, it is going to be an open government, it is going to provide us with as much information as possible, it is going to consult, it is going to do things that perhaps other governments in the past have never even considered. If these legal opinions exist as the minister says they are—and I will accept that; he has said that there are two legal opinions, both from the Attorney General's department, and both those legal opinions say that this retroactive legislation or Bill 4, as such, is constitutional—then they have nothing to hide. They have nothing to hide. There is absolutely nothing. It backs up what the minister has been saying in the House and in this committee that this bill is constitutional. There is nothing illegal about it. Hence, I think the members of this committee would be satisfied and would have no problem recommending to the House that it proceed as far as the constitutional aspect of it is concerned.

If, indeed, the legal opinions say it is unconstitutional, it is obvious, then, the government is irresponsible in proceeding with the legislation and, indeed, this committee would be recommending to the Legislature that it should not proceed with the legislation.

So there is nothing difficult about the motion at all. It is perfectly reasonable.

Mr Mammoliti: On a point of order, Mr Chairman: I would like to know whether or not we should accept the motion altogether. I had understood that we are dealing with 100b, subsection (1). This motion deals with the full bill, and I do not know whether or not we should accept the motion. I would ask for a ruling from the Chair—that particular motion.

The Chair: I think we voted on one motion in regard to section 8 100b (1) and (2). That motion was—

Mr Mammoliti: That was an amendment.

The Chair: Right, and that amendment was defeated. We had received prior notification from Mr Tilson that once we were finished with Ms Poole's amendment he was going to request, by way of motion, these legal opinions. That is what we are doing now. As soon as we dispose of Mr Tilson's motion one way or another, we will then go back immediately to another amendment that I have in regard to subsection 100b (1) and (2).

Mr Mammoliti: I just think that we should be dealing with 100b first before we accept any other motions to this degree.

The Chair: I double-checked with the clerk and she advises me that we are in order.

Mr Mammoliti: We are in order? Okay.

The Chair: Mr Mahoney, I am sorry, I did not ask for your comments. I know you were on the list.

Mr Mahoney: As I believe the minister was unavoidably away yesterday, I was as well and was not aware of this information. I am somewhat shocked to find out that there are two legal opinions dealing with the bill that have not been made available to this committee. I know you can get a legal opinion for just about anything and for everyone who says one thing, you can get another legal opinion that says another, I guess depending on—

Hon Mr Cooke: I would never say that.

Mr Mahoney: Well, no, I will say it about it; I have seen it many times. Whether or not they are consistent or contrary, or whether or not they support the bill or raise objections to the bill, if they are there it would seem to me that the integrity of this committee is being questioned that we would actually deal with a piece of legislation and make recommendation to the Legislature of the province of Ontario to enact certain legislation when some members of the committee are privy to legal opinions that would have an effect on the outcome of that.

I would presume that even members of the government, indeed even the minister himself, would be hesitant to vote in favour of something if indeed there was legal advice from the provincial lawyers that what we are doing is unconstitutional.

It is not that what we are doing may not be liked by certain people or is supported by others, and it is not minor details here. We are talking about the Constitution of the country.

So I do not know; I am a little surprised that it ever requires a motion by Mr Tilson or by anyone else to bring forward that kind of information. I would have thought Minister, that that would have been the type of information you would have volunteered. I am really appalled that those two opinions are there and that apparently, since it requires a motion, you are refusing to provide them.

Hon Mr Cooke: I explained earlier this afternoon or this morning as to why, and I would like to make one thing very clear to you.

You said that the legal opinions had been shared with only some members of the committee. No one has seen the opinion except for myself as minister and my staff. It has

not been shared because the client-lawyer relationship exists and I am the minister. I have seen the opinions, I have read the opinions, and I assure you—and you can believe me or not—that we are confident that Bill 4 is constitutional. But I am not prepared to share the analysis from the Attorney General's office with you. That is going to be, according to Fair Rental, the subject of a case before the courts.

Obviously the legal opinion that we have as the client of the AG is our information and our opinion that we will share with the appropriate people when Fair Rental decides to take us to court. That will be the strategy, that will be the approach that the government will be taking. It is the analysis of the case by the AG's office. So we are obviously not going to be sharing that when a group in the province has said they are taking us to court. I think it would be fairly irresponsible.

550

Mr Mahoney: A very interesting position or conundrum that—

Hon Mr Cooke: The same position the government has taken for years.

Mr Mahoney: It is a very interesting position or conundrum that it puts this committee in. You are asking us to support or reject certain aspects of the bill, and indeed the bill in its entirety, and yet—and then make a recommendation to the Legislature, and yet you are already finding yourself in a defensive posture, getting ready to receive attacks on the constitutionality of it.

I think, as I said the other day, that you manipulated the committee with regard to the green paper and the finality of Bill 4. It appears to me that you are now just ignoring committee requests and even if it were done in camera, it would seem to me that even the government members would have some concern about the integrity of the committee system, which I think is being very seriously abused here.

Ms Poole: I would again like some clarification. It is my understanding that, prior to introduction of any piece of legislation, the ministry involved gets an opinion from the Attorney General's office as to its legality and constitutionality.

Mr Tilson: He said that in the House.

Ms Poole: That was my understanding and I believe it was said yesterday when we were discussing this issue, and that is what I feel that it would be appropriate to table with this committee. If the ministry is preparing in defence—

Hon Mr Cooke: Give me a break, Dianne. Do not deliberately try to put words in my mouth.

Mr Mahoney: It is what you said.

Hon Mr Cooke: It was not what I said at all.

Mr Mahoney: It was what you said.

Hon Mr Cooke: No, it is not.

Mr Tilson: It certainly was.

Ms Poole: If you would wait, Minister, to hear the rest of what I had to say, you might not leap in with that conclusion.

What I was going to say was, I can certainly appreciate that, if you are obtaining a legal opinion for a defence in

court, at this stage it may not be ready and it may not be appropriate to table with this committee. I am talking about the original legal opinion that would have been obtained prior to introduction of this legislation.

Hon Mr Cooke: There is not one. Colleen will—

Ms Poole: So, you did not receive a legal opinion?

Hon Mr Cooke: Colleen will explain to you the process that I have tried to explain three times, but Colleen will explain it probably in a way that—

Ms Poole: —even I can understand.

Hon Mr Cooke: Exactly.

Ms Parrish: Oh, dear.

Ms Poole: It seems like a lot of us are having this problem, Minister, so maybe it is not personal—

Ms Parrish: Perhaps I will explain what the normal process is.

The normal process is that when we develop a cabinet submission we inquire from our colleagues in the Ministry of the Attorney General as to the constitutionality of the policy proposal, that is proceeded, and that is part of the confidential cabinet process. We then proceed to legislative counsel and our own lawyers and we draft the legislation. It then goes back through cabinet, through the committee that approves legislation. The legislation went through all those normal steps and there were no concerns raised at any of those steps.

It is not the normal course to obtain a constitutional opinion on every piece of legislation that is introduced because that would be an incredible burden. However, when Fair Rental first made its presentation to this committee, it raised the issue of constitutionality at that time when Mr Melnitzer made his first presentation to the committee. As a result of that concern that was raised, we did request a formal written opinion from the constitutional law section, which we normally do only when these kinds of concerns are formally raised when we thought that there was potential for litigation. We also shared with them and have asked their views on the opinion that was provided at the press conference of Mr Robert Doumani.

That was the process and that is the normal process that government follows in relationship to legislation.

Ms Poole: So what you are saying is that there may be an opinion as to the legality of what you are proposing, but not the constitutionality? I am saying that, prior to the introduction of the legislation, it is not a normal process to get an opinion on the constitutionality—that when the AG's office looks at the policy, it is looking at it from the legality point and whether there is any conflict with other legislation and that type of thing as opposed to the constitutionality.

Ms Parrish: They look specifically at the issue of constitutionality of the policy.

Ms Poole: So this is done, but what you are saying is that it is a confidential cabinet document and cannot be released.

Ms Parrish: What I am saying is that we do not normally ask for a formal constitutional opinion unless there is a specific issue flagged. Up until the time that someone says specifically to us at some stage, that is when we trigger

the constitutional opinion. In all honesty, the first time the issue surfaced in that sense was when it was raised by Fair Rental, and that was the time at which we anticipated that there could be an issue raised, and that was when we followed the normal procedure to ask for a formal request in a formal way.

Ms Poole: So any opinion, legal opinion, given prior to the introduction of the legislation would have been verbal, not written. Is that correct?

Ms Parrish: Yes. We do go through a certain written process in regard to cabinet submissions, but we do not ask for a formal, written opinion. They simply—it is not a formal opinion system.

Mr Tilson: My recollection is I raised this matter in the House in December I asked, had he received a legal opinion on the constitutionality of this matter?—and the minister informed the House at that time that he had, that the Attorney General's department had provided him with such an opinion. This was long before this committee was even struck. That is on Hansard.

Hon Mr Cooke: No, I did not say that the AG's office had supplied us with an opinion. What I indicated was it had gone through the normal process and there were no concerns expressed. I know I did not say there was a written opinion, because there was not a written opinion.

Mr Tilson: I would concur. You did not say it was a written opinion, but you did indicate—

Hon Mr Cooke: I said it had gone through the normal process.

Mr Tilson: You did indicate that there was an opinion obtained from the Attorney General's department.

Hon Mr Cooke: I said it had gone through the normal process.

Mr Tilson: I do not want to play with words, Mr Chairman. All I know is that I am satisfied now that there are opinions out there that the minister has in his possession, which leads me to believe that this bill is unconstitutional or otherwise why would he have any fear of producing them? I think that this committee should insist on seeing them. Even the members of this committee, the New Democratic members of this committee, have not seen this. I think that this committee is totally irresponsible if we are going to proceed without forming an opinion as to whether or not this is in fact a legal law.

The Chair: I am going to ask the clerk to re-read the motion, please.

Clerk of the Committee: Mr Tilson moved that the Minister of Housing table with the committee the two written legal opinions of the Attorney General requested by the ministry on (1) the constitutionality of Bill 4 and (2) the legal opinion given to Fair Rental Policy Organization of Ontario.

Mr Tilson: I request a recorded vote, Mr Chairman.

The Chair: A recorded vote has been requested.

The committee divided on Mr Tilson's motion, which was negatived on the following vote:

Ayes—5

Brown, Poole, Mahoney, Tilson, Turnbull.

Nays—6

Abel, Harrington, Huget, Mammoliti, Owens, M. Ward.

Mr Tilson: Mr Chairman, on a point of information: is regrettable that the committee is taking this position, and I am therefore now serving the minister with an application and I am making it under the Freedom of Information and Protection of Privacy Act, for those opinions.

The Chair: Thank you for the information. Okay. We are going to carry on with clause-by-clause. Are there any further amendments?

1600

Mr Tilson: I have delivered to the clerk an amendment that the Progressive Conservative Party wishes to submit, which she will distribute to you.

The Chair: The motion has been distributed.

Mr Tilson moves that section 100b of the act, as set out in section 8 of the bill, be struck out and the following substituted:

"100b(1) Subject to subsections (2) and (3), this part applies to every rent increase that takes effect on or after the day the Residential Rent Regulation Amendment Act 1991, receives royal assent.

"(2) This part does not apply to a rent increase proposed in an application or set out in an order of the minister, the board or a court if the effective date of the first rent increase in the residential complex applied for in the application or set out in the order is before the day the Residential Rent Regulation Amendment Act, 1991, receives royal assent.

"(3) This part does not apply to a notice issued under section 92 if the order under subsection 92(1) on which it is based was made before the day the Residential Rent Regulation Amendment Act, 1991, receives royal assent.

"(4) Part VI does not apply where this part applies, unless this part provides otherwise."

Mr Tilson: I am not going to repeat what has been said. Again, this is an amendment to the retroactive provisions of the bill and obviously the Progressive Conservative Party has stated throughout these entire hearings that we are opposed to the retroactive feature of the bill. It is unfair. It is unexpected. It is a surprise. It is dastardly.

We did support the Liberal amendment as a form of compromise. We did not feel that in fact went far enough. However, we supported it. We believe, however—and this is based on the minister's own information—that certain matters would not be caught by the legislation, and this of course does catch all outstanding applications.

One of the matters that was raised throughout these proceedings by tenants was the terrible, terrible condition that apartments are being kept in around this province—everything from major capital expenditures, such as apartment roofs, parking garages, cement work, matters that deal not only with the upkeep of the building but the safety of the building. Driveways, parking lots are not being

maintained, and we believe that landlords should be encouraged to do all of these things.

We do not believe—and this was reiterated by Mr Thom last night—that this government is encouraging private enterprise to proceed with making capital improvements to its buildings. Specifically, there are good landlords in this province, good landlords who have sought the approval of the tenants, who have made the applications, who, under the rules of the Bill 51 legislation, the Residential Rent Regulation Act, 1986, obtained orders, obtained authority from the government to proceed, mortgaged their houses, mortgaged their buildings, obtained other financing, have done things. They are trying to keep up their buildings. In fact, they have done it. I will not list the many examples, because that has been done earlier today. I am sure that most of the members of this committee will recall the stories that have been told this committee. I believe that this type of amendment will catch all of the situations.

People who were contemplating making changes to their buildings—there have been landlords who have advised us that they had in the works plans to repair their roofs, to repair their parking garages, to repair the cement work on their buildings. Those have been stopped because of Bill 4, because of the retroactive aspect of Bill 4. The liberal amendment of course went specifically to where moneys have been paid or work had actually been done. But it did not catch the situation where an application had been made contemplating these very serious renovations. So accordingly, I would ask the committee to make this amendment to the bill to essentially do away with the retroactive aspect of the legislation.

Mr Mahoney: I would like to contemplate the thought of voting on motions such as this in somewhere other than the confines of Queen's Park. I would like to see the government members who sat on the committee vote in favour of it in London with the people in the audience who came before us demonstrating the losses that they had incurred. Remember that young fellow who bought his first six-unit building, moved into one of them with his wife, struggled, did the carpentry work himself, the electrical work himself, the plumbing work himself until he could afford to save enough money over the years to buy a second building with six units and he moved into one of those units with his wife and did all of that same work himself? Do you remember him? And we are telling him, by not agreeing to Ms Poole's amendment, and now, if you do not agree to this amendment, we are telling him that he is bankrupt.

We are sending that message very clearly. We are telling him that as a government you do not care that he is going bankrupt. You can say you care. I heard members of the committee make sympathetic noises, warm and cosy, and "Thank you very much for bringing your concerns to this committee." I can remember members of the committee saying how the government was going to listen and how the government intended to take into consideration the concerns of that young man. But if you do not do something about the retroactivity, you are not listening and you

are not doing anything to take into account his concerns—and you are bankrupting him.

The young man in Sudbury who had bought a building from his grandfather and who had done all the work himself sat before us and told us his story: how it used to be just a barn in his grandfather's day, and how they worked hard together, and his skills as a carpenter and how they built it into an apartment unit. He told you that whole story too. And you again made those warm, cosy sounds, many of you, that you appreciated him coming. There were the woman and the daughter from New Liskeard who came before the committee in Sudbury with their story about the consistency—the low rents of all three of those individuals, and they are only three that come to mind off the top of my head.

I understand the concerns of the people from Parkdale who were in here with vermin and cockroaches and holes in their walls. Nobody wants to see that. If changes are needed in the present system to correct that problem, I would support those changes. I would support this minister and this government in making changes that would address the problems that those tenants in Parkdale are facing. But how can anybody with any kind of human decency support legislation that does what this is going to do to those people in London and Sudbury and New Liskeard? It is absolutely beyond comprehension. Yet that is exactly what you are doing by not supporting this motion.

I understand the system full well, being the official whip of my party. I understand caucus discipline and the necessity for it and I think it is part of our system and I understand the frustration. Even though you are going to vote this down, I presume, I would hope that at least there has been some blood on the floor in your caucus room. I would hope that especially all of you who sat in those committee hearings and heard those people tell real stories—they were not coming to us with some fabrication. They were not coming to us saying, "If you do this, this may affect me this way." They were coming to you saying, "Here are hard facts, here is my life story, and you people, if you pass this, are destroying me." So I would hope that at the very least there is blood on the floor in your caucus room and that you have communicated to this minister, and through him to the ministry, that this retroactivity, whether it is even constitutional or not, is simply not fair.

How can you say it is fair to take someone's life savings, life investment, life career, family gains and with one stroke of a legislative pen eliminate it? If I could hear one of you speak to me and to this committee and to those people and justify that action, I would just be delighted. But you cannot. And exactly right; as Ms Poole says, you have not. I think you should be ashamed of this, of not supporting the elimination of the retroactivity. And you could.

1610

Mr Mammoliti: On a point of order, Mr Chairman: Is he speaking to us or to the Chair? I do not know.

The Vice-Chair: That is not a point of order.

Mr Mahoney: It is nothing, Mr Mammoliti. If you are feeling nervous—

Interjection: Something you do not understand, George.

Mr Mammoliti: He is referring to us. That is not going through the Chair. That is a point of order.

Mr Mahoney: Mr Chair, I am referring to the members of this committee through you. And Mr Chair, if any of the members of this committee are able to justify to those people in Ontario—and if they feel a little nervous, Mr Chairman, about my statements, I understand that because indeed, if I were sitting on that side I would feel nervous, too, if I were voting to do that. The minister can smirk if he wants to, but he did not sit there and listen to those people in London and Sudbury. I think it is criminal what you are doing. You should be ashamed of yourself.

Mr Turnbull: All I can say is Mr Mahoney has spoken eloquently to the point I was going to make and I agree with every word he said.

Ms Poole: I will try one more time. I know that my own amendment failed, which I think did address the problems that Mr Mahoney was just referring to, but this is the last chance you have to change the retroactivity in this bill. As Mr Mahoney just said, as we travelled the province we heard many stories. They were not fabrications; they were not fairy tales; they were real people. In the first few weeks that we sat on this committee, if I heard the term “real people” once, I heard it 50 times. But when the members of the government used that word, they only used it in reference to tenants. I believe tenants are real people, with real needs and real problems. But what I fail to comprehend is how members of the government can sit there and deny that these people who came before our committee were real people. They came to our committee and virtually everyone who came, all of these small landlords, came with the story, “We can live with the other things, but we cannot live with the retroactivity.”

Back in December when I was speaking to this issue in the House I used the example of a lady from Ottawa. She was a widow in her 70s and she had borrowed money from the bank and from her family with which to do the capital repairs on the building that she and her husband had owned, a small building, for 25 years. They had done all the work, worked day and night on this building, everything they did themselves. She took all of five days off in those 25 years to go to Disney World because her son won a trip. Now this lady, who is in her 70s and had rheumatism in her hands and has spent the last 25 years that she has been in Canada pouring her life blood into this building as her way of life, has had her retirement savings completely wiped out, plus she owes money that she cannot repay.

Hon Mr Cooke: And she did not set any money aside for capital repairs for 25 years?

Ms Poole: Mr Minister!

Interjection: What an attitude.

Interjection: What tripe.

Ms Poole: The minister has just said in 25—the minister misspeaks what I used to say. The minister’s comment was that for 25 years she did not put anything aside

for capital repairs. She did a lot of repairs on her own but when the point came when the boiler needed replacing and the roof needed replacing—the rents in that building were very low—

Hon Mr Cooke: Is that what the repairs were?

Ms Poole: That is what the repairs were.

Mr Mahoney: On a point of order, Mr Chairman: just think that it is extremely inappropriate that a minister would be interrupting a member of this committee who is making a speech in relationship to an amendment. I think the minister should apologize and withdraw his remarks.

The Chair: Ms Poole.

Ms Poole: Well, if you are not interested in listening—but, I mean, you heard these same stories. You are going to go home tonight as members of this committee including the Chair, to whom I am addressing these remarks, and we are all going to have to say—if those people do have their worst fears realized and they lose their retirement savings, then are we to say as legislators, “Well, too bad. That is the way the cookie crumbles. It was a bad investment because you did not think ahead”? Certainly they did not think ahead. They looked at the laws at the time, which were to assist them in making those capital repairs, and they acted under the laws of the land.

There is nothing left to say. I think it has all been said. I hope that this last chance to reconsider will be taken by the government members and that you can give some support to addressing the devastating retroactivity of this bill.

Hon Mr Cooke: Very briefly, again I would simply point out that the opposition members try to picture this as if by supporting this type of amendment that there are absolutely no side effects, there is nothing on the other side. The critics and the members know that that is simply not the case, that there are victims on the other side. There are tenants like the tenants, as I said earlier today, when Councillor Gardner brought down today who would be dramatically affected by your amendment.

Choosing a date for this legislation was extremely difficult but the date of 1 October still allows 130,000 units to go through the system under your rules, under Bill 51, and this saves some of the tenants from the negative effects of the current rent review system that is in place. It is a difficult balance to find, but, you know, I have met many landlords in this province as well. I have done some travelling too. I do not know if it is the same landlord, but there certainly was a landlord whom I met in Ottawa who had owned her building for quite a number of years. I am not quite sure why, over that period of time, there would be the expectation that all of the money for capital would be coming from an application to rent review. In fact, one of the landlords when I was in Ottawa made the comment that there had not been fridges and stoves replaced for 20 years and she decided to do that and she could not understand why we would not support the idea of those fridges and stoves being able to be passed through the system.

Well, I do not agree with that philosophy. I think the rent is paying for something in this province and that to just give the impression that if they do not get to go through the rent review system that—the way that you

would talk, they are getting zero; they are getting no rent at all, they are getting no income at all. That is simply not the case. There is an expectation that some of this work is supposed to be done and some of this capital is supposed to be spent out of the rental income that is coming in. If somebody has owned a building for 25 years, I think it is a very relevant question to ask, "Why was some money not set aside?" That is a difference in philosophy between your parties and the government party. I accept that. I do not view things the way that you view things. I do not believe that Bill 51 provided enough protection. I am not prepared to accept an amendment that will in effect have a dramatic effect and destroy the positive effects of protection for tenants in this province. That is exactly what the amendment that the Tory critic is supporting will do. We are not prepared to support this amendment because it eliminates the protection that Bill 4 provides.

620

Mr Tilson: On a point of order, Mr Chairman: I do not think that reserve funds have anything much to do with retroactive provision. That is another area. It is getting into the green paper. It is clouding the issue.

Hon Mr Cooke: I am specifically responding to Ms Poole's statement.

Mr Tilson: I think the minister should be stopped from getting into irrelevant matters as far as the retroactive issue of this debate is concerned.

The Chair: Well, we have been allowing some considerable latitude all day and part of the afternoon and I think I will continue to do so. Excuse me, Minister. If you are finished we have Mr Brown and then Ms Poole on the list.

Mr Brown: I joined this committee and, quite frankly, although I have been a member of this place for a while, I did not know a great deal about rent review. In my particular riding it has not been a great issue. As a matter of fact, in my particular riding we have a large surplus—at least in one part of the riding—of rental stock where the maximum rent that could be charged for these units is often twice what the market will bear. So I come here without really knowing a lot about rent review because, as an MPP, I had never become involved, basically, on a constituency basis.

Therefore, I came, as you did—a lot of you perhaps did not have a great knowledge of rent control, and so we came here kind of as a jury and it is remarkable there are 12 of us, it is the same as a jury—to see the government prove its case, to go out and hear the people of Ontario speak to us, to hear their views, and to see what the people of Ontario had to say about this particular piece of legislation. And we have heard.

My colleagues have talked about the small landlord, the little guy, the guy we need to protect, the guy who has worked very hard and has provided a great service to this province. He has provided rental accommodation in a province where we do not have anywhere near as many units as we need. These people have contributed to Ontario. Sure, there have been some who have not been good landlords, but there are always some of any group who have not behaved the way the rest of us would have

wished. Certainly we know that some things needed to be addressed, that there were problems out there, particularly maintenance problems.

So we look at retroactivity and we say to landlords who have spent the money, played by the rules, done everything the way it should be done so far as we can see—no one on the government side has questioned any of these landlords and elicited a response that they had done anything other than what was permitted by the law of the province of Ontario, and now they are being penalized with retroactivity.

It has been suggested by some witnesses that retroactivity needs a very strong case put before the committee before you would ever allow such a sweeping elimination of the rights of people as put before—it was the law of the land. They could do as they wished provided they followed this law. Maybe it was bad. I understand what the minister says, that he thinks it was not correct, and that is fair. That is a difference of opinion. But he has reached back and we all know he has reached back far more than the date of 1 October when you really look at this.

So the minister says: "Yes, but on the other side, what about tenants? You are not talking about tenants on this side of the floor." Well, that is just not true. We are talking about maintenance. Does anyone in this room really believe that maintenance and capital expenditures during the term of Bill 4 will be at a level even as much as they were last year? I would say not. My colleague Mr Mahoney asked over and over again what they were going to gain in terms of maintenance under Bill 4. Not one tenants' organization, I believe, could point out anything. Nothing.

What about choice? How many rental units do you think will come onto the market during the term of this bill? None, or very few. So if price is the only thing that concerns the minister, maybe he is right. But there are more issues for tenants and we believe that. So I am very happy to support the Conservative motion today because I think it is in the interests of tenants. I was happier with ours but it did not find favour with the committee. I just ask the government to reconsider. This is important. It is important to tenants.

Ms Poole: I would like to refer back to the two cases we were just discussing from the Ottawa area: the one I brought up and the one the minister referred to. I do not believe they are the same instance because the lady I was talking to came to meet with me in December and did not make a presentation to the committee in Ottawa.

The widow I was talking about had major repairs that were necessary to her building. She had taken care of the minor repairs; the building was in very good shape. When she needed the roof, she needed the new boiler, needed the new plumbing system, she took \$100,000 of her own money, which is what she had saved over those 25 years to put into the building. When she went to the bank to get the rest, they said: "We cannot give you this money unless you have got revenue in. If you go back to rent review and raise the rent so that you have revenue coming in so that you can afford to pay back the loan, then we will loan it." So, Minister, she did put in her own money for which she had no intention and did not plan to raise the rents.

The fact of the matter is, the units were renting for \$250. When you consider municipal taxes for \$100 a month, and prior to going to anything else as far as expenditures you have municipal taxes eating up that kind of proportion, you can tell she did not make a lot of profit. As far as the Ottawa landlord you were referring to who presented to the committee is concerned, I would venture to say that that Ottawa landlord had a personal income from her rental property of far less than half of your salary, and how is she supposed to put on a new roof or fix the parking garage or anything else on that type of income?

We have had evidence from this committee from presenters which showed that they would have had to own the building for 120 years in order to make the kind of income to pay for these repairs. It just does not hold water because there is a very major difference between major capital repairs and minor repairs. The minister is absolutely right about day-to-day maintenance and minor repairs, and I have always agreed with him that if these are not provided in the rent then we should be hammering the landlords who are not providing them. I have never changed my position on that. The minister and I, from day one, have had a very different idea of how you handle major capital repairs.

In his newborn life he has said, "Well, we've always considered that there had to be some cost pass-through for capital." That was not true. It was not true a year ago—

Hon Mr Cooke: I have never said that.

Ms Poole: Well, Minister, your words in Hansard—

Hon Mr Cooke: I have said that the permanent solution has to deal with capital, is what I have said.

Ms Poole: Your words in Hansard not even one year ago were that you felt that the only thing that should be passed through to tenants was an inflationary amount and not one penny more, and that was your position.

1630

Mr Mahoney: It was the agenda for power.

Ms Poole: And it ended up being the agenda for power.

Getting back to the issue at hand, these are the kind of people whom this retroactivity is going to affect. When you come down to the bottom line, you have to look at yourself in the mirror and say either you believed these witnesses or you did not. If you did not and you want to smile about it and say, "I cannot believe she fell for that," then that is fine. I did believe them. I do believe that the retroactivity is going to have serious ramifications for those landlords. Ultimately it is going to have serious ramifications for our housing market because I can assure you that what I am getting back from people in my area is that their relationship has deteriorated with their landlord, even those who had very good relationships; that the landlord has said: "Well, I am sorry. The way my throat is being strangled I am not going to provide any extras. I am not going to provide the same standards. I am sorry but that is the way things are." That is not good for tenants and it is not good for our housing market. It is not good for anybody. So anyway, I think that sums up what I have to say.

Mr Tilson: I have listened to the Premier of this province in the House, particularly in the early stages, saying he never dreamt he would be here. Well, here he is. I would like you all, all of the members of the New Democratic Party who are on this committee and the minister, to go back a year ago, a year ago right now. Would you have ever dreamt that you would be where you are now, running this province? Would you ever have dreamt that? If you are honest, I do not think you would have. We had an unexpected election and here you are; you are running the place. Yet you have the gall to sit there and say that the landlords should be psychic and predict (a) that you were going to achieve power and (b) that you were going to do what you did.

You certainly did not say during the election that you were going to do what you did now with respect to the retroactive features. So I find it astounding that you would sit there—if you are honest about it, you know perfectly well that you never dreamt, particularly the New Democratic members on this committee, never dreamt that you would be over where you are now. You would be off on town councils or off on unions or whatever you were doing, but you never dreamt that you would be here. But you are here and yet you expect the landlords to be psychic and predict that you would be passing this dreadful legislation. So think about that when you are voting on this amendment.

The Chair: Any further debate on this amendment?

Mr Tilson: I would like this vote to be recorded, Mr Chair.

Mr Mahoney: There are no speakers on the government side, Mr Chair?

Mr Tilson: No. They had not asked to be—

The Chair: I have no influence on speakers. Were you asking me?

Mr Mahoney: Sure, I was asking you if there are any of the government members on your list to speak.

The Chair: Okay.

Mr Mahoney: Are there?

The Chair: No, Mr Mahoney, there are not.

Mr Mahoney: Mr Chairman, I am somewhat shocked at that, somewhat surprised. I would have thought—mean, there have been enough pleas here to ask for some justification. Do you not feel any—aside from the minister; we know that his mind is made up. Mr Chair, through you I would ask why the members of the committee—

Mr Mammoliti: On a point of order, Mr Chairman: I think it is our option whether we want to speak. We do not have to tell Mr Mahoney why we wish not to speak. That is our business. They are finished. Let's deal with the vote.

The Chair: It is not a point of order.

Interjection: Thank you.

Mr Mahoney: I may not be finished. I am just aghast though, and I certainly cannot—

Interjection: Do not get them mad, George. They will go on all night.

Mr Mahoney: I cannot, certainly any more than the Chair, influence the members to speak to this amendment. But I am very shocked, having been through the process that we have been through. I have the feeling that all of these amendments—there are a number of pages here; I think the Liberal Party critic has submitted a dozen or so and there are, I am not sure, a few here from the Conservative Party critic as well. There are a number from the government. I suspect the ones from the government will probably carry since they are signed on behalf of the minister by Frances Lankin.

The Chair: Thank you.

Mr Mahoney: So I suspect that they will carry, but this amendment, is being given short shrift by the members of this committee. It concerns me because of the impact that it has on the people that we saw around the province. Is there a problem, Mr Chairman?

The Chair: I was just going to ask you to direct your comments as much as possible to 100b(1) and (2) in the amendments. I have allowed latitude for everybody this afternoon and we have to—

Mr Mahoney: You are just not going to allow any for me at this stage?

The Chair: I am going to allow you as much as I can, Mr Mahoney.

Mr Mahoney: Thank you very much, Mr Chairman. You are always a gentleman.

I guess the concern that I have, and it is not really even matter of just repeating; I am not going to do that, repeating the concerns that my party's critic has eloquently put forward. But it is the frustration, I guess, of this amendment coming forward and dealing with such an important issue. It appears that the minister, perhaps through the whip of the committee, has done the job of just simply whipping everybody into being trained seals. I find that very unfortunate.

Mr Owens: On a point of order, Mr Chairman: The comment with respect to trained seals is certainly not germane to the amendment at hand and I would request that the Chair instruct the member to restrain his comments to the matter that is at hand.

The Chair: They are not seals.

Mr Mahoney: No, they are seals, they are just not trained, I guess. That is fine. That is all I have, Mr Chairman. The day will come when you have to answer to your people why you did not speak on their behalf.

The Chair: The Chair cannot instruct members on what adjectives to use. There are certain terms and certain words which are unparliamentary.

Mr Owens: At least use something that is not monosyllabic. Like, let's get into some intellectual debate as opposed to simple name-calling.

Mr Tilson: We are trying to keep it simple for you.

The Chair: As I was saying, the Chair cannot instruct members on what adjectives to use. The Chair can only caution members when they use unparliamentary phrases or terms, as has been documented by the works that we

govern ourselves by. And every now and then when I feel I need assistance I check with the clerk. But I cannot advise members on what adjectives they should use.

Mr Mammoliti: Mr Chairman, with all due respect, I take offence to being called a seal in this particular building and I think that you can stop that particular adjective.

Ms Poole: On a point of clarification, Mr Chairman: so George does not object to being a trained seal, he just does not like the word "seal."

Mr Mammoliti: It is not whether it is seal or whether it is trained seal, it is still name-calling and I think the Chair can put a stop to that sort of thing.

Ms Poole: Sticks and stones may break my bones, but names will never hurt me.

Mr Mammoliti: My name is George Mammoliti.

The Chair: Okay, where are we at here? We are going to put the question. Do you want the—

Mr Tilson: A recorded vote.

The Chair: Mr Tilson has requested a recorded vote.

The committee divided on Mr Tilson's motion, which was negated on the following vote:

Ayes—3

Mahoney, Poole, Tilson.

Nays—6

Abel, Harrington, Huget, Mammoliti, Owens, M. Ward.

1640

The Chair: The motion is defeated. Are there further amendments to section 8, subsections 100b(1), (2) and (3)? Shall subsection 100b(1) carry? All in favour? Carried.

Interjection: Nay.

The Chair: Four nays, six in favour.

Shall subsection 100b(2) carry? Carried.

Shall subsection 100b(3) carry? All in favour? Carried. In the Chair's opinion, it is carried.

Shall section 8—oh, I am sorry, no, not quite. We are on to section 100c. We are moving along too quickly here. I am sorry about that.

Mr Mahoney: We would not want the government to do that.

The Chair: No.

Ms Poole: You only missed seven pages, Mr Chair.

The Chair: Any amendments to clauses 100c(1)(a), (b) or subsection 100c(2)? Ms Poole.

Ms Poole: Mr Chair, I had understood that we were going to go back to subsections 1(1) and (2) of the bill, which were stood down yesterday.

The Chair: Do we have unanimous consent to go back to section 1, like we discussed earlier on?

Hon Mr Cooke: Do we want to finish what we are doing? Why do we not finish section 100?

The Chair: It has been suggested that we finish section 100.

Hon Mr Cooke: Just keep going through this section and then go back to section 1. Why do we not finish what we are doing and then go back?

Clerk of the Committee: I am just going by what the member had asked—

The Chair: Okay, we are going to proceed then. Any amendments to section 100c? Shall subsection 100c(1) carry? All in favour? Opposed? Carried.

Shall clause 100c(1)(a) carry?

Clerk of the Committee: You just have to go to subsection (2).

The Chair: Oh, we just go right to subsection (2). We do not need clauses (a) and (b)? We have already done that.

Ms Poole: Mr Chair, I realize that you were unable to be with the committee yesterday, but the procedure we had established—

The Chair: You have adopted a block procedure, I can see that, where you do clauses (a) and (b) all at once.

Ms Poole: Well, we also adopted the procedure where the parliamentary assistant and/or the minister, depending on which one was available at the time, would describe the purpose of the amendment.

The Chair: Yes, my apologies. I was not aware of what you had agreed on yesterday. We will ask the minister then to explain for us the purpose of clauses 100c(1)(a) and (b).

Hon Mr Cooke: Okay, this subsection refers to rent increases which may be charged without making an application, otherwise known as the guideline. It also preserves the right of the landlord to increase the rent above the guideline, up to the maximum rent where an amount less than the maximum rent is being charged. As well, increases above the guideline are specifically permitted by an order. This section is basically the same as is in the current act.

The Chair: Thank you. Shall clauses 100c(1)(a) and (b) carry? Oh, I am sorry, Ms Poole.

Ms Poole: I just did have one point of clarification. The minister had said that this provision was similar to the one that is already in the RRRA. I just wondered what the difference specifically was, because otherwise we would not have to bring it in.

Ms Parrish: Well, my understanding—and I hope legislative counsel or my colleague Christina Sokulsky from the legal branch will correct me—is that what we are doing in section 8 is we are creating a new part that says essentially, this is sort of like a little code or a little procedure that applies to all of the moratorium applications. So there is a certain repetition just because what you have done is you have created a whole part. You may recall in the previous amendment we had this mysterious thing that said this part applies and part 5 does not apply or part 6, and I understand that a lot of these repetition elements from the other statute are simply to create this sort of whole part that in essence governs the sort of moratorium period applications. That is my understanding as to why there is—and there are a number of sections coming up

that do essentially carry forward the same provisions as are in the RRRA in the other part, part 6, I guess it is.

Ms Poole: So it does not change the process as it applied in the RRRA, but it just substantiates that the moratorium can take place and these are the rules governing it.

Ms Parrish: These are the moratorium rules, sort of to avoid having to do too much running back and forth between the two sections.

Ms Poole: Thank you. That is it.

The Chair: Any further comments, questions? Seeing none, shall clause 100c(1)(a) and (b) carry? Carried.

Shall subsection 100c(2) carry? I am sorry, Minister could you please explain the—

Hon Mr Cooke: On subsection 100c(2)?

The Chair: Yes.

Hon Mr Cooke: This subsection continues the provision that there must be at least 12 months between rent increases. The rent cannot be increased even if a new tenant moves in if there has been less than 12 months since the last rent increase. The landlord must provide the tenant a 90-day notice of rent increase as required by section 5. That is the same as—

The Chair: Any questions on that? Shall subsection 100c(2) carry? Carried. Minister, could you please explain for us the purpose of subsection 100d(1)?

Hon Mr Cooke: Okay. Subsection 100d(1) requires the landlord wishing to increase the maximum rent for a rental unit by more than the current maximum rent plus the guideline to make an application to the minister not less than 90 days before the effective date of the first intended rent increase in the complex.

The Chair: Thank you. Any questions on that? Shall subsection 100d(1) carry? Carried.

Hon Mr Cooke: Subsection 100d(2)?

The Chair: Yes, subsection 100d(2).

Hon Mr Cooke: This section requires that when whole-building-review application is made under subsection 100d(1), that it include all units in the building. Rent increases for each unit will be determined for a 12-month period starting with the first intended increase in the complex.

The Chair: Any questions? Shall subsection 100d(2) carry? Carried.

Hon Mr Cooke: Subsection 100d(3) specifies that the whole-building review applies regardless of whether tenancy agreements exist between the landlord and the tenant. That is, the application includes vacant units in the building.

The Chair: Any questions? Shall subsection 100d(3) carry? Carried.

Subsection 100d(4).

Hon Mr Cooke: Subsection 100d(4) preserves certain procedures in conjunction with a whole-building-review application. The application must be made at least 90 days before the effective date of the first intended rent increase. The landlord must file a cost-revenue statement together with supporting documents at the time of filing the application. Parties to the application are permitted to view the material and make representations within specific time

ames. Provisions for extension of time to make submissions are set out.

The Chair: Shall subsection 100d(4) carry?

Ms Poole: Just another question of clarification. Necessary modifications to the application: are you referring to the form there or the procedure?

Ms Parrish: Perhaps I can get Christina to address this issue. As far as I know, the necessary modifications mean that these sections apply with necessary modifications to this part where you make the application. I do not think it affects the—am I wrong? It does not affect the—

The Chair: We can get some information from the ministry. Please come forward and identify yourself and help us out if you can.

550

Ms Sokulsky: Christina Sokulsky, senior solicitor, rent review, Ministry of Housing, legal branch. Perhaps I could ask assistance from my colleague Betsy Baldwin, legislative counsel, on this point.

Ms Baldwin: Subsections 74(3) to 74(6) are dealing with procedural matters in the comparable situation for part 6, and “with necessary modifications” is language we use when we make something that was there also apply here. So, all we are saying is the same sort of procedural rules that happen in subsections 74(3) to 74(6) happen here too, and that is what it means.

Ms Poole: So, there is no change in procedure.

Ms Baldwin: No, no. It is just adopting the same procedure.

Ms Poole: Okay. Thank you.

The Chair: Shall subsection 100d(4) carry? Carried.

Hon Mr Cooke: Subsection 100d(5) permits a landlord to make an application for an increase in advance of providing a notice of rent increase to tenants. Landlords still have to give 90 days’ notice to tenants before increasing rents.

The Chair: Any questions? Ms Poole.

Ms Poole: I would assume that this is not a change from the RRRA, and this is just to provide some leeway so that the landlord does not have to apply on exactly the same day as he or she gives notice to tenants. Thank you.

The Chair: Shall subsection 100d(5) carry? Carried.

Shall subsection 100d in its entirety carry? Carried.

Moving on to subsection 100e(1).

Hon Mr Cooke: Do you want me to read it before you—

The Chair: The minister is going to give us a brief explanation.

Hon Mr Cooke: Subsection 100e(1) sets out the threshold test for determining an extraordinary operating cost. One of the two tests must be met. Clause (1)(a) defines an extraordinary operating cost as a variance of 50% or more from the same cost category in the building operating cost index, BOCI. For example, if the heating cost component of BOCI is 6%, a landlord’s heating cost must have increased by 9% or more to qualify for an extraordinary

operating cost increase or 3% or less to qualify for an extraordinary operating cost decrease.

Clause 100e(1)(b) provides an alternative measure of extraordinary operating cost where the increase in any one of the six specified operating cost items, after allowing for the BOCI increase, accounts for a variance in the gross potential rent of at least 1%. For example, if the heating cost component of BOCI is 6%, a landlord’s heating cost must have increased by the BOCI component plus 1% of the gross potential rent of the complex. If heating costs are \$10,000 and the landlord’s gross potential rent is \$100,000, then heating costs would have to increase by at least \$1,600, which is 6% of \$10,000 plus 1% of \$100,000 to qualify for an extraordinary operating cost increase.

These are, as you will appreciate, the formulas for the exceptions under Bill 4 for operating costs to apply to rent review and are the same formulas that exist under the current legislation.

Ms Poole: I would just point out for members’ information that we have tabled an amendment which affects this particular section of the act. Because legislative counsel had advised we could not do a clause 100e(1)(c) because of the way the language was worded, we have—it is, I think, item 6 in the package we gave you—100e(5)(a) and this relates to the municipal taxes, particularly those where there has been non-compliance with a municipal work order. I do not know whether the Chair would like to deal with the amendment at the same time or—if not, I just wanted to point out to members that there will be an amendment relating to this.

The Chair: Well, I believe the Progressive Conservatives have an amendment on clauses 100e(1)(a) and 100e(1)(b).

Mr Tilson: Yes, I wish to have an amendment with respect to 100e(1).

The Chair: Would you like to move your amendment, Mr Tilson?

Mr Tilson: Could I ask the clerk to hand out copies of that, Mr Chair.

Hon Mr Cooke: I do not know, as not a member of the committee, whether I am allowed to ask on a point of order, but would it be possible, if there other amendments that you have, that we could perhaps get them ahead of time? They are normally tabled ahead of time.

Mr Tilson: I have no problem. The reason I had not done this—

Hon Mr Cooke: In fact the rules call for that.

Mr Tilson: The reason I had not done that is that, for example, for the last amendment dealing with the retroactive feature, we had indicated that we would support the Liberal amendment, which we did, and obviously I am not going to jump ahead and say, “Well I want the Conservative amendment.” So that is why we had not produced that at that particular time.

Hon Mr Cooke: I do not think you have to worry about that.

Mr Tilson: I have no problem, and if you understand that, depending on what happens to the—because of the

order, the Liberals speak first. If that is understood, then I have no problem giving the entire package to the members of the committee.

Hon Mr Cooke: That would be helpful so that the ministry staff—

Mr Tilson: Of course. I have no problem with that, Mr Chair.

Ms Poole: I am looking at the two amendments, the Liberal amendment which provides a clarification about outstanding work orders and whether the charge for that which is levied on municipal taxes can be put through, and also the Conservative amendment, and it appears that amendment, the only change that it adds is garbage tippage fees, is that correct?

Mr Tilson: Yes.

Ms Poole: So I do not know how the minister would prefer to deal with this. I would suggest maybe we would deal with Mr Tilson's amendment first.

Hon Mr Cooke: Then we can go with an amendment.

The Chair: If I can just help the committee, it appears to me that procedurally Mr Tilson's amendment comes first, and I do not know how we would do it any other way. Mr Tilson's amendment deals directly with 100e(1)(a) and (b) and Ms Poole's amendment deals with 100e(2)(f).

Ms Poole: No, I have moved onto about the sixth one in the package. It is 100e(5)(a). Just for logistical reasons we could not include it in subsection 100e(1), but it does go hand in hand with that particular provision. So I think you are still technically correct, Mr Chair, but I wanted members to know that—

Hon Mr Cooke: If it is of any assistance, we can go through the package if you would like, in the order, and we

are going to be indicating support for that amendment, so it will not throw anything out if we just continue going through and when we get to that section, we will—

Ms Poole: Okay.

Mr Mahoney: You just said you are going to support one. You get to vote—

Hon Mr Cooke: It does not change the bill in principle.

Ms Poole: George, you are going to be able to vote for my amendment.

An hon member: Write that down.

Mr Mammoliti: I just want to point out that it is 5 o'clock and that it is unfortunate, but I have a plane to catch and I am wondering whether or not we are going to be going past 5 o'clock.

The Chair: I think we have time for Mr Tilson to move his amendment and then we will have to adjourn.

Mr Tilson moves that subsection 100e(1) of the act be struck out and the following substituted:

"100e(1) In this section, 'extraordinary operating cost' means a change in the cost of municipal taxes, heating, hydro, water, insurance, cablevision and garbage tippage fees respecting the residential complex,

"(a) that creates a variance of at least 50% from the same component set out in the building operating cost index; or

"(b) that would justify a variance in gross potential rent of at least 1% from the amount resulting from the application of the building operating cost index component."

It being 5 o'clock in the afternoon, I ask that the standing committee on general government adjourn until 10 am tomorrow morning.

The committee adjourned at 1700.

CONTENTS

Wednesday 20 February 1991

Residential Rent Regulation Amendment Act, 1990, Bill 4	G-721
Afternoon sitting	G-736
Adjournment	G-754

STANDING COMMITTEE ON GENERAL GOVERNMENT

Chair: Mancini, Remo (Essex South L)
Vice-Chair: Brown, Michael A. (Algoma-Manitoulin L)
 Bel, Donald (Wentworth North NDP)
 Bisson, Gilles (Cochrane South NDP)
 Brannville, Dennis (Victoria-Haliburton NDP)
 Duignan, Noel (Halton North NDP)
 Harrington, Margaret H. (Niagara Falls NDP)
 Mahoney, Steven W. (Mississauga West L)
 Mammoliti, George (Yorkview NDP)
 Murdoch, Bill (Grey PC)
 O'Neill, Yvonne (Ottawa Rideau L)
 Scott, Ian G. (St George-St. David L)
 Turnbull, David (York Mills PC)

Substitutions:

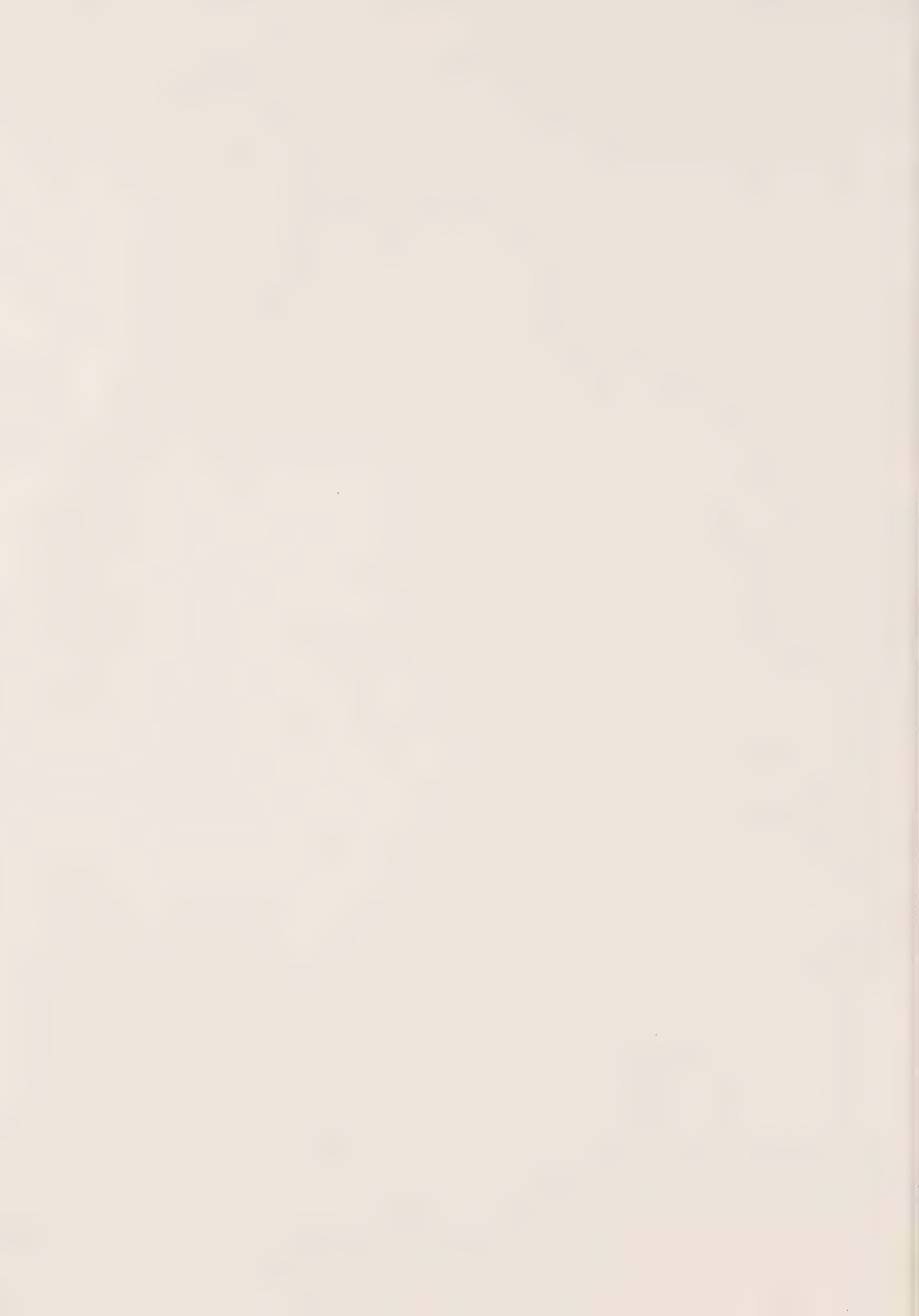
Buget, Bob (Sarnia NDP) for Mr Duignan
 McLash, Frank (Kenora L) for Mrs O'Neill
 Cole, Dianne (Eglinton L) for Mr Scott
 Olson, David (Dufferin-Peel PC) for Mr B. Murdoch
 Ward, Margery (Don Mills NDP) for Mr Bisson

Clerk: Deller, Deborah

Staff:

Baldwin, Elizabeth, Legislative Counsel
 Dunter, Leith, Legislative Counsel
 Richmond, Jerry, Research Officer, Legislative Research Service







G-16 1991

G-16 1991

ISSN 1180-5218

Legislative Assembly of Ontario

First Session, 35th Parliament

Assemblée législative de l'Ontario

Première session, 35^e législature

Official Report of Debates (Hansard)

Thursday 21 February 1991

Journal des débats (Hansard)

Le jeudi 21 février 1991

Standing committee on general government

Residential Rent Regulation
Amendment Act, 1990

Comité permanent des affaires gouvernementales

Loi de 1990 modifiant
la réglementation des loyers
d'habitationChair: Remo Mancini
Clerk: Deborah DellerPrésident : Remo Mancini
Greffier : Deborah DellerPublished by the Legislative Assembly of Ontario
Editor of Debates: Don CameronPublié par l'Assemblée législative de l'Ontario
Éditeur des débats : Don Cameron

Table of Contents

Table of Contents for proceedings reported in this issue appears at the back, together with a list of committee members and other members taking part.

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at (416) 965-2159.

Languages in Hansard

Hansard reports all debates in English or French as spoken by the participants. It does not translate remarks made in either language. Headings and tables of contents reflect language use.

Subscriptions

Subscription information may be obtained from: Sessional Subscription Service, Publications Ontario, Ministry of Government Services, 5th Floor, 880 Bay Street, Toronto, Ontario, M7A 1N8. Phone (416) 326-5310, 326-5311 or toll-free 1-800-668-9938.

Table des matières

La table des matières des séances rapportées dans ce numéro se trouve à l'arrière de ce fascicule, ainsi qu'une liste des membres du comité et des autres députés ayant participé.

Il existe un index cumulatif des numéros précédents. Les renseignements qu'il contient sont à votre disposition par téléphone auprès des employés de l'index du Journal des débats au (416) 965-2159.

Langues paraissant dans le Journal des débats

Le Journal des débats rapporte en anglais ou en français les débats, selon la langue utilisée par les participants. Les remarques faites en l'une ou l'autre langue ne sont pas traduites. La langue des en-têtes et de la table des matières reflète la langue utilisée.

Abonnements

Pour les abonnements, veuillez prendre contact avec le Service d'abonnement parlementaire, Publications Ontario, ministère des Services gouvernementaux, 5^e étage, 880, rue Bay, Toronto (Ontario) M7A 1N8. Par téléphone : (416) 326-5310, 326-5311 ou, sans frais : 1-800-668-9938.

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON GENERAL GOVERNMENT

Thursday 21 February 1991

The committee met at 1014 in room 151.

RESIDENTIAL RENT REGULATION AMENDMENT ACT, 1990

Resuming consideration of Bill 4, An Act to amend the Residential Rent Regulation Act, 1986.

Section 8:

The Chair: Yesterday afternoon, before we adjourned, we had carried in their entirety subsections 100d(1), (2), (3), (4) and (5) and we had commenced debate on clauses 100e(1)(a) and (b). At that point Mr Tilson moved an amendment to clauses 100e(1)(a) and (b). We then adjourned and promised to commence this morning's proceedings with Mr Tilson's amendment. In lieu of that, I would ask Mr Tilson to possibly re-read his amendment so we know exactly what we are debating and then we will proceed with the proper rotation.

Mr Tilson: Yes, I will read the motion, although it is summarized. The words "garbage tippage fees" are being added to the section in the bill. That is the amendment. We can call it the garbage amendment.

My motion is that subsection 100e(1) of the act be struck out and the following substituted:

"100e(1) In this section, 'extraordinary operating cost' means a change in the cost of municipal taxes, heating, hydro, water, insurance, cablevision and garbage tippage fees respecting the residential complex,

"(a) that creates a variance of at least 50% from the same component set out in the building operating cost index; or

"(b) that would justify a variance in gross potential rent of at least 1% from the amount resulting from the application of the building operating cost index component."

The purpose of this amendment was made in response to submissions that were made to the committee in Ottawa, I believe it was from a Kingston group—I cannot remember which one—which raised this issue. It is something that I had not thought about, particularly when we hear of the problem of tippage fees that are going up all over the province and how that affects tenants in apartments. The requirements from the Ministry of the Environment are going up all the time and of course naturally the tippage fees are going up as well. So I think that is something that is beyond the ability of the landlord to deal with, in the same way that municipal taxes, heating, hydro, water, insurance, cablevision, all of those items, are. Tenants need to get rid of their garbage, and obviously the tippage fees need to be paid for. That is the rationale of the amendment.

Hon Mr Cooke: Could I respond?

The Chair: The minister wishes to respond, and then we have Mr Mahoney and Ms Harrington.

Hon Mr Cooke: I gather there are some practical problems with this in that, unlike other extraordinary operating costs which are allowed under Bill 4, garbage tipping fees are not a separate BOCI component. So any fees related to garbage tippage would normally be claimed under the BOCI category "maintenance." The general category of maintenance costs is not an entire package that we are proposing would be passed through under Bill 4. What we have attempted to do is to have the guideline, which is supposed to reflect the overall cost increase of operating an apartment for that type of category, and then we have had a few areas where there might be some specific differences on a regional level. That is why cablevision, municipal taxes and those types of things have been special items that we have exempted, because at the regional level there could be something that would certainly not show up to the same extent province-wide, and those are easy to look at under the BOCI formula. There are some practical problems and there are some reasons why we have not allowed the entire maintenance package to go through.

Mr Mahoney: I do not know if I heard that as an adamant speech against the amendment. Are you suggesting there might be some way of working this out, the tipping fees, or you are just not accepting the amendment?

Hon Mr Cooke: What I am saying is that is what the cost-of-living adjustment is, the 5.4%, and you will see those costs will be picked up on the province-wide formula that was under Bill 51. We have allowed exceptions to that where there will clearly be some communities that will have substantial differences, property taxes being one of the examples.

1020

Mr Mahoney: I guess the difficulty I have is that these are costs that are not controlled in any way and are very much taxation costs. If you compare it to home owners, for example, where the costs for their garbage pickup and the tipping fees at disposal time are built right into the mill rate that is charged to each and every home owner, to say that those costs should simply be put into the guideline figure I think is really creating a double standard.

Hon Mr Cooke: I do not think I made myself clear. In the BOCI formula under Bill 51 this is not a separate item that can then figure into this formula of a 50% increase and the criteria that are used to determine whether it is an extraordinary increase. We would have to change the BOCI formula in order to work this type of an amendment, and perhaps in the permanent legislation that is something we should be doing, but we are not suggesting in Bill 4 that the BOCI formula under Bill 51 be changed, so there is not a way that it can be implemented. That is what I am saying.

Mr Mahoney: But I guess, in essence, by admitting that it should go in the permanent legislation, you—

Hon Mr Cooke: I did not say that; I said it should be considered.

Mr Mahoney: That it should be considered in the permanent legislation. Not to put words in the minister's mouth, but I would interpret that as saying the idea may have some merit and should be examined. If indeed that is the case, why would you not examine it in relation to this bill and make whatever amendments are necessary if indeed it turns out to have merit after the examination? At least, if you are not willing to accept the amendment today, take it into consideration, defer it, put it on the table to allow your people to come back with some kind of report as to whether or not it belongs in this section, because very clearly, as I was saying, and I think it was the intent of what Mr Tilson was saying, it is a cost that is very much a tax and as such should be treated in a very similar manner. If there is some technical problem, if the ministry officials are having difficulty in either amending the BOCI formula or finding some other way to include it, then perhaps the ministry could examine that.

Are you prepared to do that, to table this—I should not be so presumptuous as to table another colleague's motion, but if it were to be tabled with the ministry to allow for a report back prior to passage of this bill at committee level, then that would give you some time to analyse whether or not the merit is there. If you come back and say you are not willing to accept it, then we have to have a vote, you line up your ducks and we line up ours and away we go. But you are sounding much more reasonable this morning than you did yesterday and I am simply trying to take advantage of that.

Mr Duignan: Don't worry, he won't let you.

Hon Mr Cooke: I do not think I should respond. I mean, this is the kindest thing you have said, so I am not sure that I—

Mr Mahoney: And it may continue to be.

Hon Mr Cooke: I am sure it will be. I am glad it is on the record.

Mr Mahoney: I learned from watching some very professional people in opposition over three years.

Hon Mr Cooke: Jeez, two kind things; you called us professional.

Mr Mahoney: In opposition.

Ms Poole: Maybe we should add the words "slick and professional."

Mr Mahoney: I thought you were great in opposition, I thought we were great in government, so what the heck.

The Vice-Chair: I think we are losing it here. Order.

Hon Mr Cooke: In the discussion document we certainly talk about the inflation index that will have to go into the permanent legislation, and we need to talk to people, landlords and tenants and other groups across the province to figure out how the BOCI formula should be changed to make it fairer.

But if you are going to rework the formula, I think would be the wrong approach to rework the formula in a temporary bill without having consultation, and I think that is one of the purposes of the green paper and what we need to look at for the permanent piece of legislation. This is certainly an area that I would be more than willing to look at for incorporating in the formula, and anything else that we need to do, look at it when we are going through the consultation process, but I do not think it would be appropriate in the temporary legislation, because the whole BOCI formula would have to be reworked.

Mr Mahoney: Mr Chair, what I am hearing is it is a good idea but the government is not prepared to accept it as an amendment. I am going to be supporting this amendment; it makes sense.

Hon Mr Cooke: It might be a good idea, but it was not taken into consideration by the previous government when it put Bill 51 together, and we would like to fix it up in our permanent legislation.

Mr Mahoney: Perhaps you should fix it up in your temporary legislation, which is what is being attempted here. Really, what the previous government did, whether we included it or not, is somewhat irrelevant today. We are talking about an idea that has been put on the table by a member of this committee that has some merit. I even saw some heads nodding over there during a couple of the speeches. I do not know if they were falling off to sleep or if they were actually in agreement, but I get nervous when I see them starting to agree. I will be supporting this motion.

Ms Harrington: I want to say that Mr Tilson's motion does point to a very real concern. I know from my own riding that just within the last, say, 18 months we have put regulations in place at the municipal level where commercial people have to dump at a site and pay very high dollars for this. I sat on this committee with the commercial concerns in Niagara Falls, and it is very real, the escalation of these costs.

As the minister has said, because we cannot change the BOCI formula at this particular time and it gets rather complex—when I was discussing this amendment with the ministry staff, I made it clear to them that when we look at the long-term legislation, which we hope will be very quickly dealt with—as you know, our dog and pony show is going on the road as of the first week in March—we will then look at this, as the minister has just said. So I thank you, Mr Tilson, for this genuine concern.

Mr Tilson: I think all of us in our ridings realize the environmental problems we have with waste. I cannot believe there is not a riding in the Legislature that is not expressing concerns with the disposal of its waste and quite frankly, until the Ministry of the Environment gets it act together and starts dealing with the problems of waste around the province, tipping fees are going to continue to go up.

It is a major problem. The Minister of the Environment is not taking the fast action that a lot of people had hoped she would. It is a matter that I assume the minister did not think of when he put forward this interim legislation, the breathing space.

He has indicated, of course, that as a result of the dog and pony show that is being referred to, and perhaps other hearings it will entail when the permanent bill is prepared, it is going to be some time before permanent legislation is put forward. Common sense tells us, because of the environmental problems we have with waste around this province, that tippage fees are going to increase. Quite frankly, I do not care how we do this as long as it is done. I would prefer the amendment. I do believe it is an extraordinary operating cost. The minister does not; I do. As Mr Mahoney has pointed out, it could be compared to taxes. It is something that the landlord has no control over. That is what I define as an extraordinary operating cost. The major ones are listed and this is certainly a major one.

Tenants are going to be affected by garbage tippage fees. It is as clear as can be. If the minister is suggesting making a regulation that can implement it, I am certain that with all the talent this government claims it has, that can be solved. If it does not have the talent to solve it before interim legislation, then the amendment should be agreed upon, because otherwise landlords are going to have double whammies and it will be some time before the permanent legislation, which the minister indicated may deal with garbage tippage fees, will be dealt with. I do not think we can wait until the permanent legislation comes in, and it is for that reason that this amendment is being made.

030

Ms Poole: As both Mr Tilson and Mrs Harrington have said in their comments, the garbage tippage fees are a very real problem. We are facing it, I think, in every riding in this province. I have not had a chance to explore this with Mr Tilson, because I was not aware of the procedural problems in changing this that the minister has just pointed out, but I would like to propose, if he is willing, a friendly amendment.

It appears right now, from the minister's comments, that the government members do not intend to support this amendment. I am prepared to accept the minister's explanation that it is because garbage tipping fees are not included right now in BOCI and this would create a procedural difficulty. However, I also think that Mr Mahoney's point is well taken, that the ministry, if it was given some time to explore this, may well be able to come up with a way out of this difficulty.

I would propose, if Mr Tilson is willing to accept this as a friendly amendment, that we amend subsection 100e(1) to say, "In this section, 'extraordinary operating cost' means a change in the cost of municipal taxes, heating, hydro, water, insurance, cablevision or any other cost deemed by regulations respecting the residential complex." That would give the minister and his staff the opportunity to see if there was a way in which garbage tippage fees could be included, and if so, that by regulation they could then include that in this temporary legislation.

The Chair: Perhaps we could find out if Mr Tilson would—

Mr Tilson: Perhaps the minister could comment on that.

Hon Mr Cooke: Subject to the appropriate wording, not being a lawyer, I think there might be a couple of words that are used that would be fine, and that will give us some time to do some research into this and see whether there is something that needs to be addressed immediately and certainly would add the flexibility that we do not have now.

The Chair: I would like to hear from Mr Tilson on whether he thinks it is friendly.

Ms Poole: If I could just interrupt before then, Mr Chair, legislative counsel has advised me that the word should be "prescribed" as opposed to "deemed"—"prescribed by regulation."

The Chair: Is the sense of this amendment considered friendly, Mr Tilson?

Mr Tilson: My problem is that I am not so sure how I am reading what the minister is saying about the principle of garbage tippage fees. I believe he stated that he did not consider it an extraordinary operating cost.

Hon Mr Cooke: What I said was, because it is not currently in the BOCI formula it is not something that can—the explanation that I read to you yesterday about 100e, the technical definition of what an extraordinary increase is, relates specifically to components of the BOCI formula, and since this is not a specific component of the BOCI formula it is impossible to determine what the extraordinary increase would be. It is fine to say that we would accept the amendment, but it is not workable. I am talking about Mr Tilson's amendment as worded. I could sit here and say I am going to accept your amendment, but it would not be particularly useful.

Mr Tilson: Is it not workable because, in principle, you do not feel it should be part of the interim legislation or—

Hon Mr Cooke: It is because it is not in the BOCI formula.

Mr Tilson: If I had your undertaking to use your best efforts to put it into the BOCI formula, then I would agree to the friendly amendment, but if it is not your undertaking to do so, then I feel that strongly about it that it should be voted on.

Hon Mr Cooke: You have my commitment that I will take a look at it, but in less than the last 24 hours—because I saw this amendment yesterday—to this morning, I can tell you I have not spent any time on it. I have not had a chance to analyse what kinds of costs we are talking about and how much of a problem this is. I certainly will have the ministry do some work on this and I would be glad to share it with both the opposition critics and we can talk about it again. If Ms Poole's amendment carries, then obviously when we put our research together we can determine whether it is a major problem, and if it is a major problem, we can then, with her amendment, deal with it. Without her amendment we cannot deal with it, of course.

Mr Tilson: I understand what you are saying, although my difficulty is that I am still not certain as to how you feel about this subject philosophically, as to whether you think it should be part of the interim legislation or

whether it is something that should simply wait until the permanent legislation comes about. I think it should be part of the permanent legislation, in some form or other, either in this bill or in a regulation that comes from this bill. So I need some indication from you—

Hon Mr Cooke: I do not have a philosophical view, because I have to get a better understanding of exactly the extent of the problem. That is what I think the first step should be for me. I would be more than willing to have the ministry do some work on it and then share the information with the two opposition critics. If we have Ms Poole's amendment, then we can talk about it and we do not need any amendments; we can accept your amendment and then deal with it. But I am not going to make an absolute commitment here that the BOCI formula is going to be changed, that we are going to deal with this, until I have an assessment and an analysis of the problem.

Mr Tilson: Mr Chair, I appreciate what the minister is saying. I would like some opportunity to discuss it with Mr Turnbull.

The Vice-Chair: Are you asking for a recess, Mr Tilson?

Mr Tilson: Either that, or if you want to set it down, we could deal with it later.

The Vice-Chair: I need some indication which one you want. I cannot make up your mind for you.

Mr Tilson: All right, let us have a recess and I will talk it over with Mr Turnbull.

The Vice-Chair: How much time would you need?

Mr Tilson: Oh, I do not know—15 minutes?

The Vice-Chair: Do I have unanimous agreement for a 15-minute recess.

Ms Harrington: How about five?

The Vice-Chair: I think, Mr Tilson, the best we can do is a five-minute recess for you.

Mr Mahoney: How about seven and a half?

Ms Poole: Seven and a half, I see the nod.

Mr Tilson: That is what you will give? It is not you, Mr Chair. I realize you are looking at the government side. But fine, we will do our best. I will come back and tell you what I am thinking of.

The Vice-Chair: I think that could be a good idea. Mrs Poole could perhaps talk to legislative counsel and see that it was the right language, if he chose to accept it, so that might work for everybody. Do I have unanimous agreement for a five-minute recess? The committee will return at 1044.

The committee recessed at 1039.

1055

The Acting Chair (Mr Abel): I see a quorum. I call the meeting to order.

Mr Tilson: I have had a chance to review this matter with Mr Turnbull and the members of our staff. We do understand the minister's comments with respect to the BOCI formula. However, that does not lessen our concerns about this issue. Specifically, it has now been drawn to our

attention that the Environment minister is today announcing items involving waste. Specifically, it is expected she is going to be announcing—and this is an article from the Toronto Star, Mr Chairman—

Mr Mahoney: It must be true.

Mr Tilson: It must be true. I am reading from the Toronto Star. The minister "is expected to announce today a mandatory 20% cut in packaging for all products sold in the province." As well, other items of her announcement will include "a requirement that municipalities charge the full cost of dumping garbage in landfills, a measure that would lead to increased tipping fees at many dumps. The Metro area dumps already charge high fees, but others in the province charge low fees or allow free use." So as early as this afternoon, it is going to become quite apparent to anyone living in residential apartments that tipping fees are going to have a large effect on their way of life. In other words, they are going to go up. They have got to go up.

It has been pointed out to me that since 1983 tipping fees have risen over 600% in the GTA. That is a substantial increase. On average, builders are paying \$300 per home to dispose of the approximately 2.5 tonnes of garbage. So it is a very serious problem of garbage tipping fees, and I think the individual in Ottawa who drew this to our attention is quite right.

At the same time, I appreciate what the minister is saying as to the technical definition, in making this amendment. I do acknowledge that. However, my staff believe and hopefully the committee will give its unanimous consent. It is 11 o'clock now. My staff would be prepared to prepare an amendment for the consideration of this committee which would result in the BOCI formula being amended. We feel that we could do that by this afternoon if the committee provided us with sufficient time. I must confess I appreciate Mrs Poole's suggestion, but I think that obviously as early as this afternoon it is going to become quite apparent that tipping fees are going to be a very, very serious matter in this province. I do not think we should disregard them.

Accordingly, Mr Chairman, I would ask that this specific amendment be tabled—in other words, the debate on subsection 100e(1) be tabled until this afternoon to enable my staff to assist me in preparing an amendment that the committee would find more palatable.

The Acting Chair: The motion is to table.

1100

Hon Mr Cooke: Very briefly, I just do not think that is the appropriate way to be changing the BOCI formula. I think there has to be some work done, as I said, to assess the problem, and I would be willing to share that information with the opposition critics after the ministry had done some assessment of the problem. To make changes to the BOCI formula in committee without having that kind of assessment, I think is wrong. I agree there are going to have to be some major changes to the formula in the permanent system, but I do not think we should start ad hoc changing it in committee. The BOCI formula is not even in the legislation; it is in a schedule attached to the legislation.

I just ask the member to take my commitment that this matter will be assessed. We will share that information with the opposition critics between now and when the House comes back and see if there is any way that it can be addressed if the assessment shows that it needs to be. I can point out to you that even if the BOCI formula were changed this afternoon, it would not do anything under the Bill 4 period, because you still have to have a base cost in the BOCI formula in order to have any increases kick in. So even if you made the amendment to the BOCI formula this afternoon, there would be no effect at all for at least a year.

Mr Tilson: I appreciate the undertaking that the minister has given this committee. However, I do feel this problem is most serious, and we are going to read the newspapers tomorrow and tonight indicating how serious this environmental issue is and how it is going to affect the tenants of this province. I think all parties support assisting the tenants in this very serious environmental issue.

I would simply ask the committee, if it is a technical reason why this amendment is being defeated—and everyone agrees in principle that we do have an environmental problem—that we at least be allowed several hours to present an amendment to you. If that amendment is unacceptable, then perhaps we could go back to dealing with the minister's undertaking and trying to resolve it that way.

Hon Mr Cooke: Can I just explain one thing again? I am not sure, you might have been talking to Mr Mahoney when I mentioned this a couple of minutes ago. If we were to change the BOCI formula this afternoon to have this component, any increase would not take effect for a year. The permanent legislation will be in place a year from now. It is not going to have the kind of impact that you think it is going to have in any case, so I am not quite sure that I understand the need. It takes a year for it to kick in because you have to have a base figure in, and the permanent legislation will be in by the time the year is up, so it will not have any practical impact, or the practical impact that you want it to have.

Mr Tilson: Just give me a moment, Mr Chairman?

The Vice-Chair: Yes, Mr Tilson.

Mr Tilson: Mr Chairman, obviously you will have to excuse, a new member trying to learn the procedures of pending things. My understanding is that the amendment we would be proposing would in fact be an amendment to the regulations, which I think would be out of order. Accordingly, I am prepared to accept Mrs Poole's suggestion of a friendly amendment together with the undertaking that has been given to us by the minister.

The Vice-Chair: Thank you, Mr Tilson. Could someone give us the reading of the new amendment?

Mr Tilson: Instead of the words "and garbage tippage fees," they would be replaced with the words "or any other prescribed cost."

Mr Mahoney: Do you need time to get to know how to vote on this?

Mr Tilson: Forget it. That is acceptable to the government members of the committee, so I have no further comments to make, Mr Chairman.

The Vice-Chair: Thank you, Mr Tilson. Are there any more comments on the amendment?

Mr Mahoney: Recorded.

The Vice-Chair: Seeing none, is it the pleasure of the committee that the motion carry?

Mr Tilson: I think Mr Mahoney requested a recorded vote.

The Vice-Chair: Mr Mahoney has requested a recorded vote.

The committee divided on Mr Tilson's motion, which was agreed to on the following vote:

Ayes—8

Cooper, Duignan, Mahoney, Owens, Poole, Tilson, Turnbull, Ward, M.

Nays—2

Abel, Harrington

Motion agreed to.

The Vice-Chair: Are there any further questions, comments or amendments to subsection 100e(1)?

Ms Poole: Just a point of clarification, Mr Chair: Yesterday, I brought forward the fact that I had an amendment that would affect the definition of municipal taxes under subsection 100e(1), and because of a numbering problem this would not be dealt with till subsection 100e(5a) of the act. The minister has indicated that his party will be supporting this amendment. I have no problem with either dealing with it now, since it is in conjunction with this particular clause, or with delaying it until later in the proceedings, whichever the minister or you deem appropriate.

The Vice-Chair: Legislative counsel?

Ms Hunter: I think it would be more appropriate to deal with it when we get to subsection 5a. Subsection 1 is basically a definition, and what you have is a substantive provision in the section that certainly deals with extraordinary operating costs but probably more properly refers, as it says in 5a, to clause 2(b), where you have the substantive bringing in of the extraordinary operating costs. My belief is that your aim, as I understand it, is best served by having it where it is and that there will be nothing to prevent you from raising it when we get to that part of the bill.

The Vice-Chair: So it is the pleasure of the committee we will continue to go through the sections as they appear. Could I have agreement, then, that subsection 100e(1), as amended, will carry? Carried.

Moving on to subsection 100e(2), Minister, do you have a comment?

Hon Mr Cooke: Clauses 2(a) and (b) set out the specific criteria for determining the justified rent increase for a whole-building review: (a) an operating cost allowance, the guideline percentage, residential complex cost index, which is 5.5% in 1991 multiplied by the gross potential rent of the complex; and (b) extraordinary operating costs

for specific categories. The calculation for the six categories is set out in subsection 100e(1).

The Vice-Chair: Do you want to do all of them or just do the first two?

Hon Mr Cooke: I thought we were doing each. I think on clause (c) we have an amendment.

The Vice-Chair: We are dealing, just so the committee understands, with clauses 100e(2)(a) and (b). Are there any comments, questions or amendments?

Ms Harrington: Yes, I have an amendment.

Hon Mr Cooke: To clause (c). We are just going to do clauses (a) and (b) right now.

1110

The Vice-Chair: If there are not, is it the pleasure of the committee that clauses 100e(2)(a) and (b) carry? No, I have made an error. We will move on to clause (c) in procedure. Ms Harrington, you have an amendment to this section?

Ms Harrington moves that clause 100e(2)(c) of the act, as set out in section 8 of the bill, be struck out and the following substituted:

“(c) any increase or decrease of costs arising from changes in interest rate occurring on the renewal or refinancing by the landlord of a mortgage or loan where,

“(i) the mortgage or loan and the renewal or refinancing both relate to the landlord’s acquisition or construction of the residential complex,

“(ii) the renewal or refinancing is made between parties dealing at arm’s length, and

“(iii) the mortgage or loan was made between parties dealing at arm’s length or was entered into before 29 November 1990.”

Ms Harrington: Could I comment on it?

The Vice-Chair: Yes. Ms Harrington has proposed an amendment, Ms Harrington has some comments.

Ms Harrington: This amendment clarifies the intention that in order to qualify for consideration, the financing instrument, whether a mortgage/loan or renewal/refinancing, must relate to the landlord’s acquisition or construction of the complex.

Mortgages/loans made before 29 November 1990 may be non-arm’s-length, while mortgages and loans made on or after that date and all renewal and refinancing must be arm’s-length. This was the original policy intention.

Ms Poole: My comments come as a question for clarification. Is the purpose of this amendment to ensure that a landlord who has basically paid off his or her mortgage on a building and then obtains a subsequent mortgage for other purposes, other than that relating to the building, would not be allowed to put those interest costs through? I do not know if my question is too confusing, but—

Hon Mr Cooke: I am going to ask Colleen to answer that. This amendment is simply clarifying exactly what was intended in the original bill, but I am going to ask Colleen to explain the technical aspect of it.

Ms Poole: Do you understand my question—

Ms Parrish: Yes, yes.

Ms Poole: —which was kind of convoluted?

Ms Parrish: What you are asking me is whether or not this would permit refinancing, and it does not. It only relates to the renewal of what the debt instrument already was, so it really just deals with a fairly narrow case, the situation where the landlord had a mortgage on the property for \$500,000 at 10% and the mortgage rate comes up for renewal and moves from 10% to 13%, and what you are picking up is that change, which is 3%. That is all that is being affected.

The drafting error which we made through inadvertence was this: In the old system you used to be able to have non-arm’s-length mortgages and you could court those changes. We felt that one of the ways of testing, whether or not you were having a bona fide interest rate, as opposed to manipulating the interest rate to do various things, was to require that there be a market test. So the idea is that if you go to the trust company or the bank and they say it is 13%, they have no incentive to manipulate the package around.

However, inadvertently we caught the following situation: An individual has a mortgage on his rental property with his mother. They then go to the Royal Bank after this bill is in place. They had the mortgage with their mother at 10% and they go to the Royal Bank and they get 12%, and we say, “You can’t get anything because your first mortgage with your mother is non-arm’s-length.” So what we are saying is, that should not prohibit the new mortgage which is at market rate, from coming into the system.

However, if you entered into that mortgage after 29 November—for example, if I rush out today and I get this mortgage with my mother at 4% and then I rush over to the Royal Bank and get it at 12%, that difference will not be recognized. It is really just intended to fix the original intention of the act. The drafting accidentally caught that situation and all we are trying to do is to change that. I hope that was helpful.

Ms Poole: Yes.

Ms Parrish: It is a somewhat complex area to explain.

Mr Turnbull: Perhaps I will address myself directly to Colleen, if you do not mind, Minister.

You will continue to be allowed to have a non-arm’s-length mortgage?

Ms Parrish: No, not if it is entered into after 28 November, if you renew it after that time.

Mr Turnbull: You will not be allowed to have a non-arm’s-length?

Ms Parrish: You can have one, but you cannot recognize the interest rate change.

Mr Turnbull: There are simple ways of testing whether it is at market rate, but since institutions will be, I put it mildly, somewhat reluctant to give a mortgage today in view of Bill 4, this will create severe problems for some people if you cannot have a continuance of a non-arm’s-length mortgage. The ability of the ministry to test the market rate is relatively simple. I mean, one does not need to be a rocket scientist to establish what the market rate of a mortgage is. So I am perplexed that at the same time Bill

is coming in you are going to disallow the continuance of a non-arm's-length mortgage at market rate.

Ms Parrish: The policy thinking behind the non-arm's-length rule is that non-arm's-length rules always create a more simple mechanism for testing the bona fides of the transaction and the parties to the transaction. You are right, you could probably think of all kinds of substitutions for that, but a non-arm's-length transaction is a good way of testing the bona fides of a transaction without having to have an extensive bureaucratic oversight and extensive rules designed to deal with those kinds of situations. Because there is no refinancing involved here, all you are getting is a straight renewal, so I am not sure if this is a significant problem or not. The thinking, though, was that a non-arm's-length test is a good way of dealing with all of the potential problems that may arise, and the ability to examine each individual transaction is limited.

Mr Turnbull: The Toronto Real Estate Board publishes on a regular basis a set of sheets which lays out the rate at which all of the lending institutions will advance first and second mortgages, and from this table it would be very easy to find an average of those. I mean, there is only a variation at most of half a percentage point, and to be able to use that as a benchmark—the point that I am making, and maybe I will address this more to the minister now—Minister, with this legislation you must be aware, whether you accept the people who broke down and cried, you must be aware that there is a problem with getting new mortgaging arrangements at this moment; and if a non-arm's-length mortgage is coming to an end, the ability of somebody, in view of Bill 4, to replace that mortgage with an arm's-length mortgage could be severely tested. It seems like the most inappropriate time to bring in this kind of amendment.

Hon Mr Cooke: I am sorry. I apologize, Mr Turnbull. I was just trying to talk to Colleen, if you could just give me two minutes and repeat your question.

120

Mr Turnbull: Sure.

Mr Tilson: Mr Chairman, perhaps during this two-minute interval I could raise a point of order with you.

The Chair: Certainly, as long as it is easy.

Mr Tilson: My submission—and I will try to keep it within the two minutes—is that this proposed amendment goes far beyond the intent of the section as outlined in the bill and is a substantial change to the bill, and is therefore out of order and should not be allowed because it is not—

The Chair: I am advised that the amendment is in order. But it was a nice try.

Mr Turnbull: could you please repeat the argument you were making?

Mr Turnbull: Minister, whether or not you accept that people were telling the truth when they broke down and cried here, it is a fact that you must be aware of and I am sure your staff has brought to your attention that there are going to be severe problems in remortgaging buildings under the present circumstances. If you are remortgaging your building—and it has been argued that buildings have

dropped by 25% in value as a result of this bill—let's take the example that was used: You got a mortgage from your mother on a sixplex, say; you contracted for a five-year period and that is all you contracted for. At the end of that time, she, like anybody else, will want the money back, but if you cannot get a mortgage from any other source, I would suspect that, using Colleen's example of the mother, you would be going to her on bended knees at the moment and saying, "Look, I'm going to lose this building unless you continue that mortgage from me."

What this does is disallow the ability to continue that on commercial terms. If you have to continue at maybe some favourable rate—I mean, she has given you a break for five years—this is precisely the time that you should not be doing this sort of thing, because it further complicates the market.

Hon Mr Cooke: Obviously the intention of this section was to try to avoid having non-arm's-length mortgages, where the rates would be higher and somebody was attempting to pass through those costs. That is what we are trying to avoid.

I understand the point you are making and I am advised that we could probably resolve the problem, because we do have some controls in the regulations of what the interest is. We could use the regulations to do that and we could probably resolve the concern that you have by dropping in our amendment that we are discussing now, paragraphs 100e(2)(c)(ii) and (iii).

Mr Turnbull: I am sorry, minister, I do not have it in front of me at this point.

Hon Mr Cooke: It reads: "(ii) the renewal or refinancing is made between parties dealing at arm's length, and

"(iii) the mortgage or loan was made between parties dealing at arm's length or was entered into before the 29 November, 1990."

Mr Turnbull: Do you think we could have just a short break to consider that and get some advice, because this is tremendously important?

Hon Mr Cooke: That is what we have legal counsel here for, to offer you advice. Legal counsel is not here from the Ministry of Housing. Legal counsel is here for the committee.

Ms Poole: Could I just have a point of clarification? From what the minister just said, is the minister suggesting that he would be willing to withdraw paragraphs (c)(ii) and (iii) and then make provisions in the regulations, or—

Hon Mr Cooke: We already have the power in the regulations so we would be okay there.

Ms Poole: So you are saying that you would be willing then to delete (c)(ii) and (iii) from your amendment.

Hon Mr Cooke: Correct.

Ms Poole: Is that correct?

Ms Parrish: We can cap for interest rate change at the CMHC average. That is the usual test we use, the CMHC average, because that is the most authoritative source.

Mr Mahoney: Could I ask, I am not sure that I am just grasping the first amendment. You are saying that, "the mortgage or loan and the renewal or refinancing both

relate to the landlord's acquisition or construction of the...complex." I understand what you are saying in this amendment, and we talked about this in the green paper the other day, Colleen. We talked about whether or not, when the term of the mortgage expires and you go back to the market, whether it is mom or whether it is the trust company, you go back to the marketplace to get your mortgage renewed and it is at an increased rate. I understood that the purpose of what you were doing was to allow—to use your example, going from 10% to 13%—that 3% increase to be part of the formula that would allow for a rent increase. Is that correct?

Ms Parrish: Correct.

Mr Mahoney: Then I have some trouble understanding the wording of this where you say that it must be arising from changes where it has to do with the acquisition or construction.

Ms Parrish: That is essentially to determine what the principal is. This section only allows you to say, "Take the principal that you had at the time of acquisition or construction and tell us what the interest rate change is."

Mr Mahoney: So you have a \$100,000 mortgage on the building and the term expires. What you are saying is, "You can't increase that \$100,000 to \$200,000 and pass those costs through."

Ms Parrish: That is right.

Mr Mahoney: You can pass through the costs on the \$100,000.

Ms Parrish: Yes.

Mr Mahoney: Then is this a negative? What has that got to do with the acquisition or construction? Are you saying they cannot get the increase for acquisition or construction, they can only get it to renew the face amount of the mortgage?

1130

Ms Parrish: Yes. The issue you are asking is whether or not, for example, I can completely redo the debt instrument. I had a mortgage at \$100,000. The property appreciates and I decide to remortgage at 75% loan-to-value, which happens to be \$400,000. This provision does not allow me to get recognition for that additional \$300,000. All it does is say, "You renew or refinance"—in the sense that you are going to a different lender—"that \$100,000 and the interest rate change associated with that is 3% and that is what is recognized by this section."

Mr Mahoney: I guess it is the legalese I always have trouble with. When you read how it gets put into words, with respect, by the counsel, it sometimes—but that is what they are telling us, so I will accept that.

What is the significance, Minister, of 29 November?

Hon Mr Cooke: The legalese throws me out too. The 29th is the day after we introduced the bill and I am going to let Colleen explain the impact that has.

Ms Parrish: It is simply the day after the bill was introduced; because this is an anti-avoidance principle, essentially, and there is no point in having an anti-avoidance

principle before anybody would know they are supposed to avoid it.

Mr Mahoney: So the day after the bill is introduced is an appropriate day for this but not for other things in the bill. You are not being retroactive in this section of the bill, you are trying to be fair here, unlike the other sections?

Ms Parrish: I do not think I can answer that question.

Mr Mahoney: I was not asking you, Colleen.

Ms Poole: I do not think you should answer that question, Colleen.

The Chair: Mrs Poole?

Ms Poole: Under the RRRA right now, the provision is that a landlord cannot have cost-through for the interest rates if it is for more than 85% of the original acquisition cost. Is that not already in the RRRA right now?

Ms Parrish: Yes. It is in the regulations and we are moving down to 75%, I think. Yes.

Ms Poole: Oh, so there is going to be a move from 85% to 75% but that is in the regulations.

Ms Parrish: That is in the regulations, along with the CMHC cap or the market cap. And it is in the regulations under the RRRA and it is in Bill 4 in a later section. It is in subsection 100e(6) of Bill 4. It says you cannot have a total principal amount in excess of 75% of the acquisition or construction cost, and you have to have at least a 25 year amortization.

Ms Poole: So it would probably be appropriate that we comment on the 75% in another section then.

It appears to me that all you are doing here is ensuring that a landlord could not pass on to the tenants any financing rate changes which were over and above what he or she originally had on the building, and that in the regulations you will cap it now at CMHC average.

Ms Parrish: Yes.

Mr Duignan: Just for clarification, this basically is recognizing costs arising from changes in the interest rates. That includes both increases and decreases, and the decreases will be passed on?

Ms Parrish: It does reflect decreases, but there is always a problem in the sense that there has to be an application and landlords are more likely to apply for increases than decreases. But if they apply for something else and there is a decrease, yes, it gets picked up.

Ms Harrington: Since I put this amendment forward and the minister feels that (ii) and (iii) are not appropriate at this time—

The Chair: You want to withdraw the original amendment and propose a new one?

Ms Harrington: I would withdraw just paragraphs (ii) and (iii).

The Chair: Okay, so the original amendment is withdrawn.

Hon Mr Cooke: No, just paragraphs (ii) and (iii) are dropped.

The Chair: Fine, paragraphs (ii) and (iii) of the original amendment are withdrawn.

Ms Poole: We could treat that as a friendly amendment.

Mr Mahoney: Mr Chair, could I ask legal counsel just to confirm, just so that I understand—I do not think this would happen, but I would hate for someone to come back at me in the Legislature and say I voted for something that I did not want to vote for. I mean, I am sure it would not happen.

It does not read the way I am being told it reads in my English, but do I understand that this amendment to 100e(2)(c)(i), which will be the only one that stands because (ii) and (iii) are being removed, then says basically that a landlord can pass on the increased financing costs of the face amount of the mortgage that is on the building on renewal date? That is basically all it says?

Ms Baldwin: That is my understanding. That is how I read it.

Mr Mahoney: Great. I do not know how you read that, but that is fine.

The Chair: Well, it is in the records anyway. That is how it is in the records.

Mr Mahoney: Now it is in the record as something I understand.

The Chair: Everybody is on the hook now.

Mr Mahoney: Not being a rocket scientist like Mr Owens.

The Chair: Very good.

Hon Mr Cooke: This is why we need a simpler permanent piece of legislation.

Mr Mahoney: Well then why do we not just get rid of his?

Hon Mr Cooke: Because we have to have something while we develop it, do we not?

Ms Poole: You just wait until the lawyers get hold of your simpler, easier, kinder, gentle system, Minister, and I left them to come up with something that is legally binding that does not confuse us all.

Hon Mr Cooke: Or you start amending it.

The Chair: Mr Turnbull.

Mr Turnbull: I just address this to legal counsel. Because of the way it is worded, frankly I am perplexed and I just need clarification.

If you were to buy—let's say an original purchase of a building; and you put on a package of mortgaging, which may be a first and second mortgage, and let us hypothetically say this building has been in the ownership of somebody for 20 years, the new buyer, who is obviously buying it at a higher price than the original owner had it for, he would not be able to put on mortgaging—

Mr Mahoney: Not after Bill 4.

Mr Turnbull: —as a result of this clause? He would not be able to pass through the cost of the additional mortgaging on that building?

Ms Hunter: I believe the answer to that question is that we are talking about an acquisition and a renewal by the same landlord.

Mr Turnbull: Okay. I am sorry, maybe I am being very slow on this, but I want to make sure. This is a very, very important clause.

Mr Tilson: One or the other; just translate it.

Mr Turnbull: Is it strictly relating to renewals of mortgages by the same landlord? It does not apply to an acquisition?

Ms Hunter: It is talking about an acquisition by a landlord and a renewal or a refinancing by the same landlord, as I understand it.

Mr Turnbull: Let us just step by step take the first acquisition. If you buy a building, and we will say it is worth \$1 million, and you put on 75% financing, which is now contemplated under Bill 4 as opposed to 85%, to the extent that the original owner of that building may have built it for \$300,000, 20 years ago—I am pulling numbers out of the air—the old landlord who had it at \$300,000 maybe had paid his mortgage down to \$150,000. With the acquisition at \$1 million, are you saying that with this legislation you would not be allowed to pass through the cost of financing at 75% of the \$1 million?

Ms Hunter: As I understand it, what this legislation does is look at the experience of the landlord who is acquiring it, the second landlord in your illustration. The renewal by that landlord and the financial experience of the previous landlord 20 years before is irrelevant to what we are dealing with here.

Mr Turnbull: I am not sure that I understand the expression "the experience of the landlord." If he is making an acquisition, he has no experience of this transaction.

Ms Hunter: You are looking at the transaction, the acquisition, as I understand it, by the landlord and the renewal by the same landlord.

Mr Turnbull: Wait a minute. Let us separate out those two transactions: One is acquisition and another one is a subsequent renewal of the mortgage. For simplicity, we will use a five-year span between the acquisition and the renewal.

In the first case, with the acquisition, does this allow, using my example, the new landlord on acquisition to be able to pass through the cost of financing at 75% of the acquisition price?

1140

Hon Mr Cooke: You see, this is one of the things that we are trying to control. The purpose of this is to flow-through the costs of renewing a mortgage and the change in interest rates if they go up, but the purpose of this bill is also to avoid the sale and flip of buildings and the increased financing that results in it. The only thing that we are trying to accomplish is that, if interest rates go up for the landlord, then those changes in interest rates can pass through, but not increased amounts of borrowing in order to facilitate a sale.

Mr Turnbull: Okay, but let's take out this word "flip." If the person is acquiring it as a first sale after 20 years, it is by any definition that we have received here, not a flip.

Hon Mr Cooke: You are talking about economic loss, and we are not suggesting in the temporary legislation that we are going to have provisions for that type of pass-through.

Mr Turnbull: Okay. So my understanding is correct when I say that in the acquisition of a building during the two-year term of Bill 4 there will be no facility for the person acquiring this building after 20 years of the previous ownership, to be able to reflect the cost of financing other than the original financing which, in my example, I said was down to \$150,000 with respect to the original owner and the new acquisition at \$1 million. Is that correct?

Hon Mr Cooke: You explain it in one way; I explain it in a different way. My different way of explaining it is that this legislation is going to stop repeated sales of buildings, which has been a problem, and the matter is now referred to the consultation process to see how economic loss and the other related issues will be dealt with.

Mr Turnbull: Minister, with due respect, we seem to be missing each other in this dialogue. I am asking you a question and I just want a simple answer to my question. I understand that your intention may be to stop flipping. We are not talking about flipping in my example. We are talking about the acquisition during the period of this moratorium of a building which has been in the previous ownership for 20 years. Are we talking about disallowing the ability to finance the difference between the existing \$150,000 mortgage and 75% of \$1 million, which would be \$750,000? Am I understanding that correctly?

Hon Mr Cooke: Some of the language and the way that you describe it might be—but essentially you have the thrust of it.

Mr Turnbull: Good. Now, my second question is, if we have a building which was acquired some years ago, and the mortgaging comes up, are you suggesting that by the deletions of (ii) and (iii) from this clause we will still be able to allow the replacement of existing mortgaging? I am not talking about increasing mortgaging, but to replace the mortgaging with something which is at market rate as determined by CMHC.

Hon Mr Cooke: Correct.

Mr Mahoney: In other words, not arm's-length.

Mr Turnbull: Even though it is not arm's-length?

Hon Mr Cooke: Correct.

Mr Tilson: I guess my question to the legislative counsel is—because the last thing that you want to do as counsel is to draft something up that is in the courts because people do not understand what it means. Having heard comments from both the Liberals and the Conservatives as to what this means, and the minister, there has been some sparring going on here, not philosophically, but what does it mean, what does the clause mean? Having heard that, do you think that there is any way that you could take it back and reword it—and I am saying this with all due respect to you—could you take this back and reword this in a manner that is perhaps a little bit clearer to all parties as to what the meaning is? Because I would submit that this will end up before the courts. Someone will be saying it means one thing and someone will be

saying it means something else. The very fact that we are having committee members raising those issues I think illustrates that.

Hon Mr Cooke: This is not an unusual discussion in a committee dealing with clause-by-clause of the legislation.

Ms Baldwin: We are happy to look it over during lunch, if the committee wishes us to do so.

Mr Tilson: I would. Otherwise I am going to vote against it, because I do not know what it means.

The Chair: I am waiting to hear a consensus from the committee. Minister?

Hon Mr Cooke: If you want to rework the legislation, I do not have any particular objection, except that this is the way, unless legislation is being drafted in plain English—

Mr Tilson: That is what I am asking be done.

Hon Mr Cooke: But you are not going to do one section of the bill in this way. I mean, this is one of the goals that we are going to try to accomplish with the permanent legislation, but there has not been a piece of legislation—what, one in Ontario's history so far?—done in plain English. Hopefully there will be more, but it has only been done once. You are not going to do one section of the bill in one particular way and all the rest of the bill in normal legalese.

Mr Tilson: It is not a matter of changing the legalese. I am simply saying, let's put it so it is quite clear, so that we all know what it means.

The Chair: Why do we not then have legislative counsel take a look at this over the lunch-hour? We have the original draft with the two deletions. We will take a look at whatever legislative counsel brings back to us. We can compare the two.

Mr Duignan: I do not think there was consensus to do that, was there? We would like to vote.

The Chair: I was trying to help the committee, because I did not see a consensus. I was making an offer. If my offer is rejected, we will have a vote then, I guess.

Ms Poole: I am also having trouble understanding this. Am I correct when I say that this clause is to prevent two situations from happening? The first is where a landlord, say, has a mortgage of \$200,000 left on his building and he wants to increase it to \$500,000 and use the other \$300,000 for something else and then pass on the cost of those interest changes to the tenants. That is the one situation. The second is where a purchaser acquires a building and pays an overinflated price for it and the transaction probably may not be at arm's length, and that is deemed to be a flip. Is that the general purpose of treating those two instances?

Hon Mr Cooke: Those are some of the instances, yes.

Ms Poole: Okay, I have no problem in either of those cases. Maybe the point Mr Turnbull was making—I would say that after 28 November 1990 if there was an investor purchasing a building, then he had notice that the government was bringing in this legislation and really should have taken a serious second thought whether he wanted to get into the rental business. So I am not sure I have a lot of

sympathy for the person who, knowing the government intended to change the legislation, did not look at the ramifications before he went ahead and purchased a building at possibly inflated prices. I do not know. I share my colleagues' confusion about this.

The Chair: Were you asking Mr Turnbull a question?

Ms Poole: Yes, that is my question. Do you think an investor would do it anyway?

Mr Turnbull: Essentially, you are quite right that any informed buyer would have to be somewhat misguided to buy an apartment building under the present regime, because if you have a building which was originally constructed for \$10,000 a suite—and there are many examples of that—to the extent that you bought that building, if it had been in the same ownership and no major work had been done to it, we know that it would be totally impossible to pass through any financing costs. So you are quite right. During the course of this moratorium it is quite clear that the NDP has decided it wants totally to stop any transactions, but I was seeking clarification that I understood what was involved.

Mr Mahoney: It seems the more we talk about this, the more confusing it gets, for some reason. I read the government motion page and I accept the fact that we are not dealing with the arm's-lengths issue any more, so mom can provide the mortgage and we will use—I think you said, Colleen—the CMHC guideline for interest rate, so that is fair.

1150

Ms Parrish: Yes.

Mr Mahoney: But the explanation of this says, "This amendment clarifies the intention that in order to qualify for consideration the financing instrument, whether a mortgage/loan or renewal/refinancing, must relate to the landlord's acquisition or construction of the complex." Am I to take it that it means you will only allow for—and that is not what I am hearing—or they will only get consideration for pass-through if it is a new purchase? I mean, that is totally contrary to what your intention is.

If a person goes in and buys a building and there are 100 suites and he looks at that building and says there is \$1,000 a month in rent on the building, therefore the value of that property, based on rental income, is X amount of dollars, that is what he is going to pay. If they decide to pay \$2 million more, I agree that you are attempting to eliminate that \$2 million, which in essence is profit to the seller, from showing up on the rental bill of the tenants. That is fine. I do not see how this says that, or even how the explanation allows for that to happen. So if you go in and buy a building and there is a \$100,000 mortgage on the building and you buy it for \$1 million, there is \$900,000 that has got to come from somewhere, and it either comes from the investor or he puts a mortgage on, as in the example of \$750,000; are you saying then that when that new \$750,000 mortgage comes up for renewal in five years' time, if it is a five-year term, he can pass on the increase in the interest rates at that time?

Ms Parrish: Yes.

Mr Mahoney: You are? So in essence you are in fact allowing for the financing costs upon renewal of the mortgage to be passed on to the tenants.

Ms Parrish: Only the interest rate change. Let's take the following example. I will take this one building and take it through a number of examples. You have the original landlord. She has a mortgage of \$1 million. It comes up for renewal and she had a mortgage at 10% and she refinances with a new lender at 12.5%. What you pass through here is 2.5%. She then puts her building into the marketplace and it is purchased by a new landlord. That landlord pays more money and that landlord goes out and he gets a mortgage of \$2 million. The difference in financing is financial loss, or economic loss, depending on the age of the building, and that is not permitted in Bill 4. However, our second landlord, he has got this \$2-million mortgage. Three years later he renews his mortgage. He has got his mortgage at 12.25%; he renews at 13%. What he passes through is that 0.75%.

Mr Mahoney: Of the total new purchase price or mortgage amount that is on the building?

The Chair: On the entire \$2 million or on the original \$1 million? That, I believe, is the question.

Mr Mahoney: That is the question.

Ms Parrish: Yes, that is the landlord's acquisition cost.

The Chair: It would be on the entire \$2 million if it is on the landlord's acquisition cost.

Ms Poole: But what about his original mortgage, though, if there is a new acquisition for \$2 million?

Mr Mahoney: It is the total amount.

Ms Parrish: That landlord's acquisition cost, his mortgage acquisition cost, \$2 million.

Mr Mahoney: You see, that is why I think that it is confusing. What we are doing here is we are putting together the two issues. With the one issue of a simple renewal, there is no sale involved here, the term of the mortgage has expired and it is time to renew that term. The increased cost in interest, it is absolutely fair and justifiable. It is the same as a home owner having his mortgage rates go up. They have to pick up that increased cost. So those costs can be passed on. The confusion that is being created is, in an attempt to eliminate flips, you are dealing with a purchase of a building and allowing for increased interest costs on the entire new purchase amount to be passed through to the tenants at the time of renewal of the new mortgage, which could be substantial. I am sure there are buildings around that have been held for 20 years that are free and clear. There is no mortgage on it, so the new purchaser comes in and buys it for \$2 million and puts \$1.5 million in mortgage financing on and takes a one-year term on the mortgage. The term expires in one year and they then get to pass on what could potentially be a substantial increase in the rents.

Take a look at how interest rates have gone in this country. Let's say we have an exorbitant rise in interest rates, of 4% or 5%. You could be passing on to the tenants, who are not responsible for this any more than the landlord

is, a rent increase of 4% or 5% of \$1 million, \$1.5 million, \$2 million in their rent. I do not know. I do not think it is the intent of the government to do that and yet it seems to me this amendment is in fact not only allowing that but perhaps encouraging it.

You have at least eliminated any attempts to artificially inflate the interest rates. Even though you are allowing non-arm's-length to take place, it has got to be at the justifiable rent increase based on the CMHC formula. You have eliminated that aspect with this amendment. I think that is clear. You deal with the increase in the interest rates on the face amount of the mortgage. I think that is clear and that is fair. What you do not deal with, and where you create a grey area, is in a substantially increased mortgage on a property and a substantial increase in interest rates. Seriously, I think it is contrary to what you want to do.

Hon Mr Cooke: This is not an area that I claim to be an expert on. That is why we have experts in the ministry. But you are correct, this is not either a perfect solution from our point of view or anybody else's, and that is why this is, again, one of the issues that is dealt with in the consultation document. There are some real difficulties apparently in trying to deal with it in an absolute way. That is why we have some protection in here, but this does not offer entire protection against even what I would call "flips." It does not offer that kind of total protection because apparently it is impossible to do it in trying to amend Bill 51.

Mr Mahoney: Why not, Minister, if you accept the fact that it is not a good amendment and that it does not solve the problem—

Hon Mr Cooke: If you want to have a serious discussion—

Mr Mahoney: I am having a serious discussion.

Hon Mr Cooke: Then do not put words in my mouth.

Mr Mahoney: You said that it does not solve the problem.

Hon Mr Cooke: No. I said that it is not a perfect solution; you are correct, but unfortunately there is not a perfect solution in this area of Bill 51 in attempting to amend it.

Mr Mahoney: Why could you not have an amendment that deals with the specifics of renewing an existing mortgage on a building and the interest rate, okay? So you deal with renewing the \$100,000 mortgage at a 13% interest rate when it was at 10%. You deal with that 3% component. Boom, that is one amendment. And then have a separate amendment, if you wish, that deals with perhaps a minister's discretion to approve the increased financing costs of a renewal of a new mortgage that is based on the acquisition. They would not be able to renew it on acquisition but they would be able to renew it after a certain period of time when the mortgage comes due. You might even want to say that it should be a minimum of a three-year term. I do not know if you want to get into that, that kind of restrictiveness. I mean, you can take open mortgages. You could have a mortgage that is open. Does it address that, that the mortgage rate could be fluctuating?

Or you could have a six-month mortgage after a purchase and the mortgage rates go up, and in six months' time you are going to have tenant groups coming in to your government screaming that they are getting this huge rent increase after six months of a new purchaser coming in.

Maybe we should take the suggestion that was made to ask legal counsel to rework the wording and at least break it into two. I am very supportive of allowing the increases for renewal of the face value of the existing mortgage, whether it is arm's-length or not, and I think we all agree on that. I think what we are having some difficulty with is if it is intended to eliminate a flip, it does not totally do that. I think you agree it does not totally do that and there should be some way of putting wording together whether it is in legalese or straight everyday Mississauga English, I like to refer to it.

1200

Hon Mr Cooke: That will hold up in the courts.

Mr Mahoney: That will hold, yes. Hazel taught me how to speak.

Ms Poole: Now we really will not understand it.

Mr Mahoney: However it is worded, there should be some way of splitting those two issues, and we would like to support something based on that, but I am having difficulty in voting for this, simply because of the confusion.

Hon Mr Cooke: So you want something that has a section that says mortgage interest rate change on the existing mortgage is fine, that is pass-through, and that is certainly the intent. And then you want another section that says—

Mr Mahoney: Deals with a sale or an acquisition—

Hon Mr Cooke: That would not be passed through. I am not quite—

Ms Poole: Two different scenarios: One is an existing mortgage which is being renewed and the second one is the acquisition of a building and what the terms are on acquisition and second on renewal, because we could actually have a building that was purchased on 1 December and would be caught under this amendment and have a renewal period of one year and on 1 December 1990 be putting through a renewal. So it would be impacted in two ways and I think what we want to prevent is a landlord taking advantage of the second part when they renew and passing that—

Hon Mr Cooke: So your basic concern is that this does not go far enough or does not add—

Ms Poole: Well, it is confusing, because it is dealing with two problems and we want to make sure that the flips you are talking about are truly prevented.

Mr Mahoney: You see, if I could carry on—

Ms Poole: Sorry about that.

Mr Mahoney: It is okay. The difficulty is that there may be some justification—I guess I use the word at the minister's discretion—at some point. What I think is happening here in an attempt—

The Chair: Mr Mahoney, can I ask a question?

Mr Mahoney: Sure.

The Chair: If I were to go out and buy a duplex for \$300,000 and the duplex was mortgage-free, and I put \$100,000 down of my own savings, which would leave me to go to a financial institution to borrow the remaining \$200,000, would the interest on the \$200,000 remaining be a pass-through cost?

Mr Mahoney: No, the interest on that I do not believe would. What we are talking about is the increase in the interest rate at time of renewal of that \$200,000. If it is a reasonable time period, I do not know that I have—I want to think his through over lunch, but I think what is happening is that because we are tying the two issues together—

The Chair: With all due respect to the committee, I think we are using very big figures and I believe smaller figures are more applicable to the people who appeared, or a lot of the people who appeared before the committee, like the \$200,000, \$300,000, \$400,000 duplex.

Mr Mahoney: Well, I was using \$100,000 as a mortgage. Someone else has suggested we get into millions.

My concern is that I support the first part of the thing. I am not sure about the second part. I want to think about it. I would like to see some wording that clearly defines it. There comes a point when a new purchase should no longer be considered a flip. We support that you do not just artificially inflate the price and pass on the interest costs to the tenants; I do not think any party has an argument, that should be stopped, but there comes a point where a new acquisition is no longer considered new and indeed there may well be justification for the increase in the interest rate on your \$200,000 mortgage to be passed on at some point.

Hon Mr Cooke: That happens out of this.

Mr Mahoney: But it could happen right off the bat under this. Well, sure it could have. The term of the mortgage is a six-month mortgage and it comes due in six months and there is a substantial rent increase. What do you do?

Hon Mr Cooke: If the mortgage on the building for the original owner was \$100,000 and the purchaser bought for \$200,000, and then the year came and the purchaser's mortgage was renewed, the only thing they would get would be a difference from, say, 10% to 12%, so they would get a 2%. They would not be getting that 10% on the increased value of the mortgage.

Mr Mahoney: Okay. I see what you are saying and you may have me on that. I think they should be split into two separate motions, one dealing with the face value and the renewal of an existing mortgage, and the other dealing with the acquisition issue. If you would be prepared to consider doing that, I think you might find a better understanding, not only by members of this committee, who have been grappling with understanding this issue for over an hour, but with the people, the public, the landlords and the tenants who are going to have to try to understand the issue.

Mr Turnbull: Mr Chair, perhaps, because of the degree of confusion that exists, I would suggest that this afternoon a chalkboard be made available so that I could

put the examples on the board. It is an area that I do have some expertise in. It seems that we are kicking these about and we jump from one example to another and it would be appropriate if we were to resolve that.

The Chair: I think, unless I am told otherwise, and I wait to hear from the minister and other members of the committee, there is a consensus to at least give legislative counsel an opportunity to reword paragraph 100e(2)(c)(i) and then have the two sections looked at simultaneously to see if there is agreement over one or the other.

Mr Turnbull: Mr Chair, I recognize you were consulting with the minister while I was speaking. Since there is so much confusion I would suggest that a white board be made available this afternoon. It is an area that I have some expertise in and I think it would be useful to all of this committee if we were talking about one consistent model, just to use as an example, because we have batted around several different examples with different numbers. We will use a very nice, smooth number so that it is very easy to understand and so that we take all of the different examples of transactions, and then there could be no misunderstanding.

The Chair: I have no trouble with that. We will ask staff to get a board in and we will go through a model. What does the committee want the Chair to do with the rewording of this section?

Mr Mahoney: I have requested that it be split into two: one dealing with the renewal of existing face-value mortgages and the increase in the interest rates at the time of the renewal, and the other dealing with acquisition.

Hon Mr Cooke: There will be nothing wrong with legislative counsel and representatives from the ministry taking a look at it to see if there is a solution, but they are not going to say that there are going to be two sections until people from legislative counsel get a look at it.

Mr Mahoney: That is fine.

Hon Mr Cooke: It may be no solution.

Mr Mahoney: If they come back and say they cannot put it into sections, I will listen to the reasons why.

The Chair: Thank you. This section of the committee's work is going to adjourn and we will reconvene—

Mr Tilson: Chalkboard this afternoon, Mr Chair, or—

The Chair: I have asked that a chalkboard or a white board be brought in.

Mr Tilson: Thank you.

The Chair: Staff will try to accommodate us as best they can. I understand that the committee has agreed to sit through the lunch hour to discuss another matter, so we will adjourn our discussions on the clause-by-clause of Bill 4—

Mr Abel: Mr Chair, I would like to move for a 15-minute recess.

The Chair: Mr Abel has moved for a 15-minute recess. Is there consensus?

Mr Mahoney: Just before you recess, Mr Chair, the reason that we agreed to extend through this lunch hour was to question the officials from the ministry on the green

paper. We all know it is difficult with schedules and everything else, and I am not going to be able to be here for at least the first hour. I am disappointed, but I just cannot be, and would like further opportunity. I just put that out, because I think there are a lot of questions on that green paper. Maybe that can start whenever we get to the green paper, and that is fine; the officials could be here at that point.

Hon Mr Cooke: Does anyone have any indication of when we are going to get to the green paper? I gather that your intention is to continue with Bill 4 next week.

Mr Mahoney: Our intention is to ensure that we get clarification on behalf of the people of the province. Unlike you or the government, we have not put any deadlines on this. We think this is extremely important. You know we have a lot of concerns and just the last hour clearly shows that there is a lot of confusion around some of the amendments put forward by the government.

The Chair: The committee stands adjourned until 12:30.

The committee recessed at 1211.

AFTERNOON SITTING

The committee resumed at 1255 in room 151.

RENT CONTROL

The Chair: Do you wish to have Hansard for this?

Ms Poole: Well, Hansard is here.

The Chair: All right, we will have Hansard for this section of the committee. It is going to be a free and open committee. Just kind of enter the debate as you wish.

Ms Poole: I have a number of questions for the ministry staff and I thank them for giving up their lunch hour to be with us today.

I would like to ask the ministry to turn to page 12 of the long-term consultation document, which considers the rent increase guideline. According to the ministry, they have outlined four different options.

One of those options is the choice of retaining the current system. The ministry has made the statement, though, "The system, however, has been criticized as too complex and not well understood by tenants."

I have looked through the other approaches that have been suggested and I have looked at the preferred approach for consultation suggested by the ministry on page 14, and quite frankly I do not see how this is going to be any simpler for tenants to understand. Most tenants and landlords that I know of do not bother themselves with how the formula was arrived at. All they are concerned about is: "Is it fair? Does it offer me as a tenant protection by ensuring that the landlord can't get an excessive rate increase?" And from a landlord's point of view, they say, "Is it fair in recognizing the costs that I have that should be passed through as a regular course of events?"

I really do not see how a tenant or a landlord is going to comprehend your—they could not comprehend it, but I do not see where your option has any advantage as far as simplicity or comprehensibility are concerned.

Ms Parrish: I think you are right that in this area there is a balance between other good things, such as the good things that the averaging does and the BOCI does, and simplicity. In a number of areas we put forward options and we say they are the preferred options even though there are some downsides to them.

The one thing I would say is that there are two things that we have not finalized or foreclosed in terms of the rent control guideline at all. That is the base, the 2% base, which is an issue that may be related to capital or other issues.

In terms of BOCI, I think you are right that by and large the guideline, whoever it gets to, and the idea that it is based on inflationary building increases, although a lot of people do not understand how it actually works, most people sort of think that is a fair concept. The preferred approach, which people may not in the end agree with, essentially says, "Well, there is some complexity to it; on the other hand it has a lot of advantages."

So the truth is, the preferred option is quite a bit like the current option. It may have a difference in the base.

The other thing—and we have already been discussing this a bit with legislative counsel—is that instead of having all these things in the legislation called RCCI and BOCI and all that, the residential complex cost index and the building operating cost index, maybe we should call it what people call it, which is the guideline. So you just use nomenclature in the statute which is the same as what people use in the street, "This is the rent control guideline," instead of having all the sort of complex wording.

You are quite right, this is probably not a mega change area, because there are a lot of very attractive things about the current system, although the base is still initially open to debate. It is really a tradeoff between simplicity and other good things, such as the compression value of the averaging and all that.

Ms Poole: I certainly commend the initiative to explain it in real words in any legislation that you might put forward. I think that would be a very good improvement, but I would not want to get too hung up on making it simplistic, because I can tell you, with the thousands and thousands of tenants and the number of landlords that I have dealt with in the last five years, never once has anybody said to me, "This guideline is too complex, I really don't understand it." What they look at is the bottom line and, "Does it treat us fairly?" I have never even had any tenant or landlord come to me and say, "I haven't been treated fairly by the guideline." So I would hesitate to throw the baby out with the bathwater when I think that is one area of our rent review legislation that did work extremely well. And I think whatever system you want, you want to ensure that it recognizes legitimate costs and changes in costs and in maintaining the building, and that it be fair from the standpoint of both parties.

Maybe now we could go over to the capital expenditures section, which I believe starts on page 25. The first thing is that the ministry has an acknowledgement here about the aging rental stock, which I think is very important and I believe has always been a recognition by the ministry, whether under the previous government or under this one. So we start with the basic premise that capital expenditures are necessary, and not to get into the luxury-necessary argument, I am just saying that some capital expenditures, whether they be repairs, renovations or replacements, are going to be necessary to maintain that building in a good state and to make it livable for the tenants.

What we are really going to be focusing on is who is going to pay for it. The question is, do we need capital expenditures? I think we have all determined that, but who is going to pay?

You have listed, I think, five different scenarios, the last one of which is government programs, which I am not counting as an option per se.

I would like to talk about the reserve funds. This is an area I know the minister is quite fond of talking about, the reserve funds, but I also believe, and you can correct me if

I am wrong, that he has reservations about how this could actually work.

My concern is that although you have spent two pages talking about some of the problems and some of the scenarios under reserve funds, there really is not sufficient evidence in this paper for us to make any kind of informed decision, and I say this not as a criticism, because a lot of us have had ideas about a reserve fund for many years. I uncovered a news article from the Canadian Jewish News in 1985 where I had put forth the idea of a reserve fund similar to what they had under the Condominium Act. So I do not mean to criticize the inclusion, I am just saying since then I have had an opportunity to find there are many problematic areas to it.

Has the ministry done extensive research at this stage about the Condominium Act and the reserve funds required and an analysis of how that has worked as far as the assessments that are required by the condominium owners who are participating are concerned, whether it is a common course of events to have a special assessment levy because the amount they pay into the fund is not sufficient? Those are the types of questions that may be alluded to in this section, but we do not really go into it in any particular depth. I have a real problem making a direct comparison to reserve funds under the Condominium Act and in our current scenario.

I believe you have mentioned one of my concerns, which is that the rental housing stock we are dealing with is aged stock. We are not starting with a new building. Under the Condominium Act I think in virtually every case you started with a new building, so that right from day one the participants were putting money into a reserve fund year by year and if it was not 15 or 20 years before a major capital repair like a new roof was necessary, there was an extensive period where that fund could be built up. So that is the first major difference I see. We have repairs that need to be done today, not 15, 20 years from now.

The second major concern I have is that we do not have any statistics showing what participants in the condominium reserve fund pay in on average per year, and I know that might be difficult to determine, but at least a range of what they pay into the reserve fund; and second, how often are there special assessments because the reserve fund, when all is said and done, did not have enough money to do a major capital repair such as underground parking garage reconstruction?

I wondered if you could perhaps take as much time as you like, because I think this is a very important area, to talk about the reserve fund and how you could envisage that it would work. I know you have put a number of options here. From your research into it so far and your brainstorming at the ministry, have you come up with any way, any preferred model or option, if you like, that you could see the reserve fund working?

Ms Parrish: We have done a lot of work on the reserve fund idea, and one of the problems we have in obtaining information is that we can look at the condominium example, but there are relatively few 20-year-old condominiums because condominiums are actually a relatively recent concept.

Ms Poole: A new creature.

Ms Parrish: The other thing, of course, about condominiums is, the way the condominium requirements work is that when you build a condominium there is a sinking fund in which the builder-developer has to put money in, and then there is money that comes in from I guess what they call the common fees or common area fees, and there is a statutory minimum that you have to put in, which I think used to be five. There has been a recent change, I understand.

Ms Poole: Five—

Ms Parrish: It is up to 10. It used to be 5% of your common fees. Condominiums have this common fee that you pay that pays for a number of things and it is \$500 a month or whatever, and if it was 5% you would have to put 5% of that aside into your condominium reserve fund for repairs. That is the requirement of the statute.

In addition, there can be a special levy. I am not aware of any statistics that we have from the Ministry of Consumer and Commercial Relations on how frequent the special levy is, but we will inquire as to whether they maintain statistics on that. Since you would not have to report that, I guess they would only get it through some sort of survey. So I will inquire.

But one of the problems we have had in terms of saying how a reserve fund would work for rental buildings is that it is very—for example, to say, “Do condominiums have enough money in their reserve fund,” very few condominiums have come up into the major repair period for their building, so it is hard to say whether or not that amount of money that is being put aside is enough and we probably will not know for a while. And I think the fact that you do not have in rental buildings an initial pot of money to sort of get you going is problematic, and that is why in the paper we look at two kinds of reserve funds, one being building-specific and one being province-wide, which could even out the age problem for rental buildings.

I do not know if my colleagues want to add anything to that discussion about the relationship between reserve funds and condominiums and rental stock.

Ms Beaumont: Apart from the age of the stock, there are some other differences generally in condominium stock and rental stock. We have many small rental buildings, and one of the problems with rental buildings is that when you have to make a major investment in small rental buildings, such as replacing the roof, and you only have a few units within the building, that can be a very significant expense for a reserve fund model to bear.

There has been work in the Ministry of Consumer and Commercial Relations on the Condominium Act with the idea of leading to some changes to that act, and that work has been ongoing for some while. I do know that one of the conclusions they had arrived at in doing that work was that the 5% was not enough, and also that it was very difficult to have a standard flat rate across all kinds of buildings, because even within the condominium stock there are distinct differences. You have small blocks with row houses and then you have the big tower.

1310

Ms Poole: I think you have homed in on a couple of my concerns, and I agree with you about the fact that condominiums are relatively new creatures so we do not have a lot of information to work with. It is only anecdotal, but I have been told by a number of people that the condominium reserve funds have not been sufficient in cases that they are aware of, so that when there has been a major expenditure the fund is short and there is a special assessment. If you can get anything in that regard from the Ministry of Consumer and Commercial Relations, it would be very helpful.

The other concern Ms Beaumont touched on, which is it depends on the size of the building, among other things: for instance, I just put out a scenario here for a building of 20 units. Say the average rent for those 20 units—say they all paid the same rent for simplicity—is \$500 a month. That is income for the landlord of \$10,000 a month, so 1% of that would be \$100 a month. Math was never my strong suit, so please feel free to correct me anywhere along the way, but I would calculate that that would be \$100 a month that the landlord could set aside, times 12 months is \$1,200 for the entire building to put into some sort of reserve fund. I am just going on the 1% amount that was mentioned, but a 1% fund, you have said, would not cover even the current level of repairs.

Ms Beaumont: Yes.

Ms Poole: Certainly if there was a reserve fund within the building where the landlord was required to put 1% in, it would not touch it. So say you change that to 5%, and my calculation is that is \$6,000. How many years is it going to take a landlord to put aside enough money to pay for just a roof, let alone plumbing, electrical, corrosion of any cement, the myriad of things that a landlord might need to replace or repair? I cannot see realistically how it can work unless there is a major infusion of funds by the provincial government. So that is the problem I have and I wondered if it would be possible for us to have something develop which is more comprehensive than the two-page summary you have given us in the consultation document.

I know that, for instance, the Federation of Metro Tenants' Associations is quite keen on the idea of a reserve fund and the concept it is working with is that the tenant would not pay any portion into that reserve fund, it would all come from these massive profits that we all know every landlord makes, which is fine for landlords who do make massive profits, but I think we have heard enough testimony that not every landlord is in that position, that we might want to be somewhat careful before rushing wholeheartedly into that.

Colleen, you mentioned that your ministry has been delving into this quite extensively. Do you have any research documentation, any backup information on the reserve fund aspect that you could share with us, maybe not at this given moment, so that we can help make a much more informed decision?

Ms Parrish: We do not really have anything off the shelf. We have a number of different things that have dealt with different areas. One of the things that we are develop-

ing and I would be glad to share with the committee is just sort of a bibliography of all the reports that exist on all of these issues, reports that deal with things like repairs, capital repair and so on.

The problem is that there really are not a lot of precedents in this area. The only precedent is the condominium precedent, which is a recent precedent and applies to certain kinds of buildings, as Anne said, which probably is not a very useful precedent for the basement apartment. There are also some precedents now developing in the non-profit sector and the co-operative sector where they have a reserve fund concept as well. But again you are dealing with new buildings.

The precedent to sort of go through a process of saying how well does this system work or that system work, is not there, so all we can do is go through a process of intuitively testing the concept, looking at how much money is needed, how it would work, how it would work from an administrative viewpoint. In other words, it is a bit of trail-blazer here, and that is why this area has been put forward to obtain the views of the public as to whether or not they think that some of the upsides are worth pursuing some of the downsides.

There is no doubt, for example, that individual reserve funds in particular will require considerable oversight by someone to ensure that the trust funds are there.

One of the other things we have also done is that I have requested an outside tax opinion as to all of the tax implications related to reserve funds of any kind, because also one of the issues that has been raised about reserve funds in the past is the tax consequence for the landlord. If the landlord receives this money, it is taxed as revenue in the landlord's hands. They have to put it aside. It does make it more difficult in some ways, because you have to reserve with taxed income. There is also the issue of the tax status of the trust and the tax status if you take the money out and so on. So I am sure that when we get that we would be—you know, it is theoretical. This would not be an opinion that was in contemplation of any litigation, it is just a tax opinion, but there are a lot of complexities in that area.

So we do not really have anything off the shelf because the reality is we have nothing to benchmark. We are meeting with anybody who wants to talk to us about this area, including Metro tenants, to see whether or not they have been able to identify areas for us to explore as a ministry.

Ms Poole: The federation is certainly one of the witnesses that we have asked to come to present their comments on the long term, so we will look forward to any information they can share. The tax implication is one that I believe you are perfectly correct on, and my understanding is that right now under the federal income tax laws condominiums do have an exemption for their reserve funds. So it is treated differently in that we would require some sort of similar exemption were rental properties in Ontario to go through the same thing, but again that is second hand, so I would not take it as gospel.

Ms Beaumont: This is the kind of information we would expect to get from this tax opinion.

Ms Parrish: The taxation of trusts is quite a complex area and it is possible that the income in the trust itself is not taxable in the same way as these educational trusts for your kids are not, but the revenue going in would be taxed. Anyway, I am not a tax expert and I think that our job at the ministry is to try to get someone who is a noted tax expert. We have asked for that and we hope that we will be able to get that information very soon.

Ms Poole: To the best of your knowledge, is there any jurisdiction within or without Canada that has a reserve fund concept operating as its basic premise for dealing with capital repairs?

Ms Richardson: Not for rental buildings.

Ms Poole: So this is true and untried ground then, true? No, this is—

Mr Mahoney: Truly.

Ms Poole: Truly. Thank you. If you see what I am like now, wait until 5 o'clock, I will be a—I will not say what I will be.

By the way, Mr Turnbull, I do not think you were here when we started, but the Chair said that this is kind of informal, so if anybody has questions, please feel free to jump right in.

Mr Turnbull: Good. Thanks. Obviously in a discussion about this capital cost pool, this reserve fund, it begs a question as to how—let us assume for the moment that in some manner or means a degree or all of this money were to be raised from the tenants. The minister himself suggested two possible models down in Windsor. He suggested 2% fixed per year added on top of the guidelines, on all buildings, or alternatively, say, a maximum of 5%, but by application in terms of the capital amount that you would imagine you could get. If you built it up in that way, and let's assume then that it is coming from the tenants, are the tenants well served by paying that money in advance of expenditures, as compared with the present method where you go out and you raise the money and you amortize it?

1320

It seems to me you are doing the same thing. You are doing the repair, but rather than asking the tenants for the money in advance to build up a fund, you are funding it as you are going along. Obviously, the greatest problem we run into is where you get a large clump of very expensive repairs all occurring at the same time, which would tend to increase the amount of money that you would have to go to the tenants for, and to the extent that it is probably more likely that you are going to have large expenditures in all buildings that have had very little work done; yes, the largest increases are there. But you can also use the other argument that they have the lowest rents. So I just ask you to reflect on that.

Ms Richardson: I think it is quite true that the way the current system has worked it is sort of after the fact. You have to spend the money first before it passed through into the rents.

If you add more money into the guideline, or if it is a reserve fund, what will be required is in effect greater

enforcement or greater policing that that money is being spent on capital expenditures. I think that is probably what everyone would expect, that if that money is there and available for capital expenditures, it is being spent on capital expenditures. That definitely is one of the concerns.

Mr Turnbull: And as I say, the whole question of the fact that by raising it after the fact you are amortizing it. It is not if it is all raised in one fell swoop, it is an amortization based upon the expected life of whatever you have done. I do not know if you have got any indication as to the lifespan, the amortization period that you assigned under Bill 51 under the regs, whether it was an appropriate number or whether you would have preferred to have fine-tuned it if Bill 51 had continued.

Ms Beaumont: As you are probably aware, there were some revisions to the regulations last year dealing with the capital area and one of the things that we have been engaged on in the ministry and consultation with outside interest groups and with an outside consultant during the summer was looking at those amortization periods to fine-tune some of them, to confirm some of them and to add in other features that have not been contemplated in the original regs, and that work was not completed during that time frame.

Mr Turnbull: Obviously, if you raise an equal amount—let's say we went with the 2% model to be added to the guidelines. What we do is we increase those buildings which have already had all kinds of repairs done to them and perhaps essentially they have been brought up to modern standards, and it seems unfair to penalize those tenants who have already paid for it.

I will digress just for the moment, just because it sort of relates a little bit. One of the problems with market value reassessment, which could rear its head as being a major problem in Metro Toronto, is any buildings which were built prior to 1971 have had their assessment base frozen and under market value reassessment they will be reassessed. Those buildings which have had a substantial amount of renovations done to them so far and their income is significantly higher than, say, an identical building which has had no work done to it and has not been sold or even flipped, because you base assessment on a rental property on the income, those properties which are already paying the highest rents because all of the costs have been flowed through to them will end up paying the highest amount of taxes. And this is one of the basic problems we get when we use a shotgun approach to anything. It seems to apply very much to the cost area, the idea of adding capital cost across the board. Could you reflect on that?

Ms Beaumont: I think in the variety of approaches you are really talking two fundamentally—I am not talking now about the government programs one, let's leave that to one side; but the others, which are all variations on the theme of the tenant pays in one way or the other—you are really talking two alternative systems, basically. One is where the tenants pay through rents in one way or another for specific work that has been done, or where you have had a base of funds built up in one way or another in anticipation of needed work. The first approach can be

very specific to what is being spent, the second is anticipating, but over the lifespan of a building, moneys are going to be spent.

But then you get into the problems that have been raised earlier on, the fact that these buildings do exist and require different amounts of money spent on them, have had different amounts of money spent on them.

Mr Turnbull: So it goes back to the fact that we should not have a shotgun approach, number one.

Ms Richardson: Perhaps one of the pros or the plus sides of increasing the guideline is that indeed it is simple. That is also one of the overall principles. If that indeed were how we were going to deal with capital expenditures, then there would not be the need for separate rules and regulations for passing through individual costs, etc. So you have to balance a number of competing interests in that.

Mr Turnbull: I would be extremely nervous about that. I happen to have one particular complex that I am thinking of in my constituency. They have gone through all of the rent increases that are known to man and they are paying very, very high rents. As a matter of fact, they have got a very large vacancy rate as a result of this. It would seem totally unreasonable that they would have to pay further increases when in essence they have already paid for these things. If you believe that rent controls ought to protect tenants, I do not believe you achieve that end when you have the double whammy of people who have already had the repairs done.

Ms Beaumont: Well, these are the kind of comments and the kind of different views that we wanted to elicit through a consultation, obviously.

Mr Turnbull: Yes.

Ms Parrish: Sometimes you do hear people saying that if you did bring in reserve funds or if you did bring in guideline increases across the board which hit everybody indiscriminately, you could develop some sort of rule that said, "Yes, but it wouldn't apply to certain kinds of buildings," for example, the kind of building you spoke of. On the one level you are bringing in a new system because it is simpler, and then on the other side, in order to be more fair to a certain group, you are creating all this set of added—

Mr Turnbull: Complexity. Yes.

Ms Parrish: So the problem is always very much between being simple and sometimes being fair. Trying to develop a system that everyone will say is fair often results in these sort of very elaborate rules which people cannot understand, and then at some level you can sometimes have such an accretion of fairness rules that you have no justice.

Mr Turnbull: I know some of you were here, were you all here the other night when Mr Thom spoke to us?

Ms Parrish: Unfortunately, I had to go to another meeting, but I think my colleague was here.

Ms Beaumont: I was here.

Ms Parrish: Did he say something like that? It would not surprise me if he did.

Mr Turnbull: I do not think he said anything that was surprising, but Mr Thom is a wonderfully erudite person who spoke for one hour without any notes without being at all repetitious and kept his flow of train of thought, and ultimately his conclusions—which of course you can read in the Thom report—are that he believes that, rather than this huge complexity that we have got at the moment which is leading to great problems, he would allow rents to rise to market levels and he would cushion the bottom 33%, and then he would control rents once they were all at market rate and he would not allow any pass-through of expenses with respect to financing or renovations or anything.

1330

I realize that we have the green paper, it is a discussion paper, but precisely because it is a discussion paper and we are talking about capital costs, have you considered this and actively discussed this with the minister, the merits of that perhaps, shielding the bottom 33% from the cost of housing and getting rid of all of this complexity, then rising to market rates and then fixing it, and let the landlord be mandated through maybe tougher controls to make sure he has to repair the building and keep it in good shape?

Ms Beaumont: I think the minister is aware. Certainly his staff, and I suspect the minister himself, have read the Thom report, or certainly extracts of the Thom report, and he has had representations made to him by the Fair Rental Policy Organization of Ontario, among others, about proposals for a shelter allowance system, which is essentially what you are talking about—

Mr Turnbull: Yes, that is right.

Ms Beaumont: —a shelter allowance system as opposed to a rent control system. But the concern with that is, how do you control the costs of a shelter allowance program and are you in any way addressing the maintenance of a stock of affordable supply in a market situation which is not an ideally functioning market? We do not have market rents. The market system is distorted by low vacancy rates, by a whole range of factors ranging from tax provisions through government programs, through municipal restrictions on building, and on and on and on. So you do not have a perfectly functioning market, which is really what Stuart Thom talks about in his report.

Mr Turnbull: This whole business of a reserve fund troubles me, because what happens is people start paying for it ahead of time. Government does not operate that way. I mean, we do not have a reserve fund to put a new roof on Queen's Park—unfortunately, maybe, because we know it is going to cost a lot of money—but it is an unnecessary burden on the people paying for such a system if you do that. Those are really my comments. I just wanted to draw you out.

Mr Mahoney: I did not want to deal with the reserve fund, but I must tell you that I think it was 1978 when we on the city of Mississauga council set up reserve funds for everything from vehicle replacement to roof repair, to putting concrete under ice surfaces, to building our city hall, which was built and paid for the day we moved in thanks to reserve funding, to that philosophy. In a general sense, it makes an awful lot of sense. I would love to be able to do

it at home; I cannot. I think that is probably true of a lot of us. Anyway, I think that is a good avenue to go towards.

There are difficulties in administering it. We always had great dangers, both at the region and the city. We would have a water rate stabilization fund, for example, to keep our increases in water rates down. There was always a great temptation politically to take money out of there so that you would not have to increase the mill rate too much. When you do that, of course, then you lose the flexibility that the reserve fund was established for.

I would just be a little concerned about the bureaucracy that might be required to administer something like that and a process that might have to be in place. It could be very difficult. However, it does work in the case of condominiums, and certainly many municipal governments have adopted that position.

My questions come around page 24 of your report, when you say there should be no increase above the guideline. First of all, I must assume that the conversation on Bill 4 this morning has led to a revisiting of the issue of whether or not interest rate changes would be allowed in the calculation, because in Bill 4 the amendments that we were dealing with with Colleen this morning say that interest rate change will be allowed, and yet this document says it will not.

We spent some considerable time the other day talking about the justification of that. I would not want you to say that it was my idea, but are you now suggesting that you are revisiting that issue and are you going to delete interest rate changes from this section?

Ms Parrish: In the paper we are revisiting everything, but I think the last time we discussed the issue of interest rate change I did point out that Bill 4 does permit interest rate changes and that the preferred option currently stated in this paper for discussion is that interest rate changes not be permitted. One of the reasonings behind that is that there is significant complexity related to interest rate changes and when you do not permit financial loss, economic loss and hardship relief, you have to have a fairly complicated system in order to make sure that nothing that used to be financial loss gets passed through the system.

In the temporary legislation the thought was to permit these renewals of mortgages, because it is really a temporary piece of legislation. When they looked at the entire package, the thought was that that issue might be revisited because we are also looking at things like capital repairs and so on.

I think that the discussion we had this morning shows how very difficult it is to deal with interest rate issues. I think you have to have a lot of rules to deal with potential abuses, with non-arm's-length transactions, with how the capital underlying the transaction works and so on. That was some of the thinking that was behind this.

Mr Mahoney: It is a funny scenario to have a government green paper not after Bill 4 has been passed but sort of right in the middle of the debate on Bill 4 and to be agreeing in Bill 4 that interest rate changes are justifiable, particularly for simple renewals of mortgages, not for refinancing or for expansion or capital improvements but sim-

ply for increasing the face amount of the mortgage due to increase in the interest on the face amount of the mortgage on a renewal. To suggest on one hand, in Bill 4, that we should do that and then put out a paper, I almost wonder if the government is simply attempting to throw up a smokescreen here, to get everybody to debate an issue that really does not need to be debated a whole lot.

While there are complications if you are going to allow for interest rate increases, the concern this morning was the mixing up of the issues: the government on the one hand says that, "You cannot pass on financing costs related to acquisition" and then on the other hand says, "except for the financing costs related to acquisition that represents the interest increase based on the renewal of the mortgage that was put on the property at the time of acquisition." I mean, this is really doublespeak, it seems to me.

So, I do not know, if we are going to allow for interest rate changes to be part of the equation in Bill 4, I have a lot of difficulty understanding why it would be a preferred exclusion in the green paper if not other than to send people like me and others into a tizzy, to spend hours discussing it. Why can we not just settle it?

Ms Beaumont: It is a discussion paper.

Mr Mahoney: But we are discussing it on Bill 4 and coming to an agreement. Even the minister is agreeing. I am even finding myself agreeing with the minister, unbelievably, on that issue. Anyway, how do you define hardship relief under that section? I looked for some form of definition in the paper and I could not find it.

Ms Parrish: Our specialist on hardship will help.

Mr Mahoney: I have got to tell you, I am a specialist on hardship.

Ms Richardson: This actually is, once again, a rent review jargon term and it has been part of the whole rent review system, certainly under the RTA, the Residential Tenancies Act, and the Residential Rent Regulation Act. What it is is a provision that once a landlord is at the break-even point, where revenues and costs are matching, that landlord could be eligible for hardship relief, which is equal to 2% of costs. That, in effect, would be a profit amount of up to 2% of costs. This particular provision has been available for the pre-1976 buildings, going right back through the past two pieces of legislation. The post-1975 buildings, the newer ones, are eligible for the economic loss provision, which to date in most cases allows a 10% rate of return on a defined equity. So there are different rules available for the post-1975. The concept here, hardship relief, really harks back to those previous two pieces of legislation and how it was dealt with at that time.

1340

Mr Mahoney: The issue of equalization: We have a building where, for whatever reason, tenant A is paying \$400 a month and tenant B is paying \$700 a month. I mean, this is very much the issue of section 63, is it not, in taxation? I guess there is apparent discrimination there. I understand the difficulty of telling someone on a Monday morning, "Your rent's going up \$300 a month because Mrs Jones is paying more than you are and this isn't fair," but should there be any attempt to bring fairness? If you are

really controlling rents in the strictest sense of the words "rent control," you are allowing for these disparities to exist, and they do exist all over, some of them due to simple tenancy time, whatever the reason might be. What was the discussion or the thinking about not addressing and simply excluding equalization from any equation?

Ms Parrish: There are a number of things about equalization. In theory, equalization should be revenue-neutral. In that sense, except for these sorts of aggravation factors for the landlord, that he has to adjust all these rents, it should make no difference.

The problem is, it is not revenue-neutral if you do not actually know what the legal rents are. So in some cases the argument is that where you have the two, one at \$500 and one at \$700, the one at \$700 may have an illegal component in it. It is just that nobody knows and therefore the argument is often made that this is a way of bringing up the other rent, which may be the legal rent, to a higher level. That is the one argument and that probably could be fixed if you had good enough information in the system and it was accessible to everyone.

The other argument is really, I guess, just the fact that it is the "We made a deal" approach, which is: "When I rented the apartment you said to me it was \$600. You didn't say to me it was \$600 if Dana's apartment is \$600 but it is \$650 if her apartment is \$700." So there is the argument about what people knew when they took on the apartment.

The other thing, and this is very anecdotal, is that there is often a suggestion that landlords will often not take increases or whatever over time because they have an elderly tenant. They wish to help them out, or just that it is a long-standing tenant who has maintained his unit well, and then they say: "Why should I give the same consideration to some new tenant? That person hasn't necessarily given me the sort of customer loyalty that this other person has." So there are some arguments there that what tends to happen is the long-term tenants have lower rents and their rents are pushed up by new tenants.

I guess that is easy to accept when it is the yuppie couple with lots of money and the elderly lady without very much money, but often it is quite the other way around. The established tenant may be fairly well off and the new tenants may be a new family to Canada, a single mom with a young child who need a good place to live too.

Mr Mahoney: The yuppies are now puppies, right? They are poor.

Ms Parrish: Since I am in that generation, I guess I will immediately agree with that.

It is a very difficult issue to deal with. If I can put it this way, it is not really an ideological issue, it is very much an issue as to the practicality and the fairness and how people feel about it. A lot of people feel quite strongly about the concept I gave you, which is the deal concept: "I look this on and this was the rent, and all of a sudden Dana complains about her rent and my rent goes up." People find that difficult to accept.

Mr Mahoney: Do you have a supplementary?

Ms Poole: Yes.

Mr Mahoney: Because I have another follow-up, too.

Ms Poole: Yes, thank you, Steve.

I can buy your argument, "a deal is a deal" concept. That to me makes a lot of sense. The difficulty with the revenue-neutral argument that you put forward does not hold as much water, from my viewpoint. For instance, what you are basically saying is that it could legalize an illegal rent and therefore that it is not really revenue-neutral to the landlord, but I would submit to you that in those cases the landlord, if he is submitting an illegal rent, is going to be getting that revenue regardless of whether there is equalization, so it is not going to affect his or her income or revenue one iota. There is no advantage or disadvantage to the landlord other than, I suppose, for simplicity.

But on the other hand—it is a difficult issue, I agree with you—there are tenants who feel it most unfair that they are paying over \$200 more for their unit than another tenant in the building with an identical unit, and the approach taken in the RRRA was that it be phased in and—correct me if I am wrong on any of this, but this is my experience—that it was phased in so there would not be a particular hardship of a lump sum, where suddenly a tenant who had been equalized would be severely disadvantaged. I do have a problem in that it was kind of thrown out automatically, even though you have said that you are willing to reconsider and you will be reconsidering. It does make a mindset right from the beginning, that the ministry has decided this is not a good idea to have in the long-term legislation. Anyway, that is my comment. I think you had more.

Mr Mahoney: Yes. Part of the difficulty with that issue is that it very much is like market value assessment, in that—

Ms Poole: Oh, no.

Mr Mahoney: Oh, it is; it is exactly the same issue as market—

Ms Poole: And I am totally opposed to the way you feel.

Mr Mahoney: I know you are, and that is why I was curious—

Mr Turnbull: I am with you.

Ms Poole: You are outvoted.

Mr Mahoney: But market value reassessment is absolutely fair. We were the largest municipality in the country to go through it, actually, and I happened to sit on council when it happened.

Ms Poole: Point of order, Mr Chair: Surely you do not agree with this?

The Chair: I want to say that on that point Mr Mahoney is absolutely correct.

Mr Mahoney: Yes.

Ms Poole: Mr Chair, market value assessment has nothing to do with the discussion paper and I would ask you to rule Mr Mahoney out of order.

Mr Mahoney: It is the exact same issue because—

Ms Poole: In addition to being wrong.

Mr Turnbull: I second that, Mr Chair.

Mr Mahoney: —the one tenant who is paying \$500—

Ms Poole: Mr Chairman—

Mr Mahoney: Our party is coming apart, you can see that.

Ms Poole: You do this to me, Steve.

Mr Mahoney: The one tenant is paying \$500 and the other one is paying \$700. If it is revenue-neutral, they should each be paying \$600, all things being equal, based on the fact that it is the same apartment, one bedroom, no perks, etc. That is the fairness and equity of section 63.

Do not misunderstand me, I am not attacking you, you are putting out a discussion paper, but if the government is to say that, "We can't deal with equalization because we have to let the marketplace do its job," in that you signed a 10-year lease and therefore you've got a rent of X, I signed a five-year lease and therefore I paid a little more, whatever it happens to be. I decided to broadloom the apartment with a certain quality broadloom, so I negotiated a lease that allows me to write off the cost of that over the term of the lease perhaps; therefore my base rent is lower. There are all kinds of deals that can be made between a tenant and a landlord. So on the one hand we are saying let's let the marketplace do its job and on the other hand we are choking the life out of it. It is a real contradiction of terms.

1350

The catch-up for below-market rents is another one that is very interesting. What would your definition—I am throwing it at the royal "you"—of market rents be?

Ms Richardson: In the previous legislation, in the Residential Rent Regulation Act, when this concept was introduced but not proclaimed, they called it "chronically depressed rents," and one of the tests in that provision was to look at similar accommodation in the neighbourhood. That in itself is also very difficult to establish. I mean, how big is that community? How big is the neighbourhood that you are looking at? So it is not an easy issue, and it depends on the age of the building, the kinds of amenities that would be provided. To draw market rents as far as what would be an appropriate market rent for an individual unit is concerned is a very difficult thing to find.

Mr Mahoney: The problem that many communities face is, they can see what their legal rent level is, and we have met landlords around the province who have said to us, "I was given approval under the RRRA to increase my rent to recover these costs but my tenants can't pay the increase, so the approval's sitting in my drawer gathering dust." So the difficulty, again, of the market rent is, I am not even sure whether or not there should be an attempt to stabilize or crystallize or equalize or catch up or any of that kind of stuff. Being very much a supporter of the free market wherever possible, I do not know where that particular one is going to fall down.

One final question, if I might—I think Mr Brown has a question he wants to put—has to do with the statement on page 30: "Funding for a province-wide reserve fund could

be created by infusion of government resources, a tax on building revenues or required contribution from rent." I am assuming you are talking about all three of those: the government putting in some tax money, then raising additional funds by taxing building revenues. I guess that would be in lieu of requiring a contribution from rents. Are you talking about a landlord tax? Is that what we are talking about here? Or a tenant tax?

Ms Beaumont: What we are talking about could be any one or all of those, and it could be a tax on building revenues as a landlord tax, contribution from rents as a tenant tax. So we are talking a variety of methods of finding that money.

Mr Mahoney: And we are talking about some intervenor funding somewhere in here that I noticed the other day. What was that for?

Ms Beaumont: This is for landlord and tenant—

Mr Mahoney: Dispute settlements? The government is going to pay for that? We are going to give work for the lawyers?

Ms Beaumont: Colleen is a lawyer. I think you should answer.

Ms Parrish: Certainly I am in favour of more work for lawyers, but I do not think that was exactly the concept. I mean, the concept of intervenor funding is a concept that is out there. We have not put it forward. What we have said is that we could have a system like they have under the Workers' Compensation Board.

Mr Mahoney: God forbid.

Ms Parrish: WCB as a board has these advisers, these two advisers, the workers' adviser and the employers' adviser. We put that forward as an option. We do not say that it is a preferred option, but we say it is an option.

What we say is that we would rather fund directly landlord and tenant organizations to give advice to, for example, small landlord groups. We already do that now. We give money now to small landlord groups, and actually they have training courses—you know, how to fill in these forms, how the system works, etc—and we have the same for tenants.

I do not know if I will get myself into trouble for saying this, but by and large people think that the government is not a bad source of straight information, straight education, but when they want someone to sort of be on their side, so to speak, they do not want a sort of me, because they are always going to perceive that I have some interest other than their interest, which is true. I have the government's interest as well. So the idea was that we looked at the possibility of having these advisers, and on balance we probably think it would not work that well, but we will wait and see what people say.

Mr Mahoney: Have you submitted this document to AMO?

Ms Parrish: To?

Mr Mahoney: AMO, the Association of Municipalities of Ontario. They have got it?

Ms Richardson: Actually, we have sent it to all municipalities as well.

Mr Mahoney: Okay. Are we talking about some structure that will facilitate their input, other than just mailing it to them? Are we going to have any kind of a working group or a discussion group or are we inviting them in here? I mean, there are 850-plus municipalities in the association, so they do have a voice.

Ms Beaumont: No, the plan is that there would be a series of invitational meetings to major groups, AMO obviously being one of the more significant of the major groups. So that certainly is planned, that there would be discussions between them and the minister.

Mr Mahoney: One final question. I have others, but I know we are running out of time. Do you see any merit in breaking such long-term legislation as this down on a regional basis where what we do for the Metropolitan Toronto, GTA communities might be substantially different than what we do for northern Ontario, southwestern Ontario, eastern Ontario?

Ms Beaumont: It is one of the things we have considered in looking at perhaps different ways of including or excluding people from a system, different levels of a guideline and so on. The problem becomes, though, when you look at the range of ways in which people have suggested breaking it down, you really build up the complexity of the system.

Some have suggested that there is a crying need for rent control systems in the major metropolitan areas, a lesser need in rural Ontario, but then in the next week you will hear from tenants living in a situation in rural Ontario where they have major problems (a) in finding affordable accommodation and (b) in being able to stay in it once they are there. So you have a greater concentration of problems, certainly, in the metropolitan area, but you have problems in other parts of the province as well.

There have been proposals made over time for confining a rent regulation system to existing buildings, excluding new buildings, excluding buildings from rent control or the first X number of years after construction, excluding buildings on the basis of if the landlord provides a new unit we will exclude a unit from your stock, excluding areas when the vacancy rate reaches a certain level, but vacancy rates go up and down. If you have got migration into an area the vacancy rate is going to go down, and then a factory closes and the vacancy rate goes up. How do you ever keep track of it? The complexity becomes a problem.

Mr Mahoney: We do it for a lot of issues. I mean, we do it for licence plate stickers and various other things. I think we have a tendency to make things more complex than we need to. I am sorry. Mike Brown.

Mr Brown: Thanks, Steve Mahoney. I just have one question, and it regards section 3 on page 5, the "Basis for Rent Control Reform." It strikes me that these principles do not really address all of the problem. I am just wondering how you rationalize that.

To me, the issue is about fair pricing as a goal that we would like to see in the rental market, we would like to address availability and we would like to address maintenance. Looking through, I would think that has maybe boiled it down a little bit too fine, but those are the basic

goals, and how we get there is what you have described after that.

But I am particularly concerned with availability. Nowhere in here does it talk about rent control in relationship to creating investment in the industry, therefore having more units, therefore having more choice for tenants, therefore, hopefully, improving the lot of tenants because they can choose more freely where they live. I just wonder why the issue does not appear to be addressed anywhere.

Ms Beaumont: I believe that a variation on that question was raised with the minister on Monday when he presented the paper to the committee, and what he was indicating at that time is that what the paper is dealing with is proposals for rent regulation and the questions of supply are going to be dealt with separately.

1400

Mr Brown: Well, I realize you are the bureaucrats, not—I just have amazing trouble. Obviously rent controls impact directly on investment and therefore on how many units come on stream, etc. I would have thought the paper may have come in here and said by 1995 we want to create 22,000 new private units in the province of Ontario, or whatever number; define the goals and then we can find out how we are going to get there. There appear to be no goals.

Ms Beaumont: I think, Mr Brown, rent regulation in itself is not alone going to be either an incentive or a disincentive to the production of rental housing. It is a whole raft of things that affect decisions people make about whether to build new rental stock: cost of construction, cost of land, tax provisions.

Mr Brown: Granted, all those things impact, and I am not suggesting that only rent control has to do with that, but rent control is a component. You cannot take this and forget about it either. I think I am talking to the wrong people, but it bothers me that this information is not put out in the discussion paper, because I think it precludes an important part of the discussion that needs to take place in Ontario.

Ms Poole: I had yet one more question on the capital expenditure side. As you can tell, this is one that I have quite a keen interest in and have for many years. I think the minister, when he told me several weeks ago that he thought I would like the consultation paper, maybe was referring to the fact that some of the provisions under the options under capital expenditures are my own words coming back to me, so he would very much like me to agree with those words in a continuing saga.

I would like to explore the cost pass-through through rents, and as you know, the amendment I have tabled with this committee deals with a cost pass-through for necessary repairs, with a cap, making provisions in the cases where there is ongoing deliberate neglect and also providing the minister with the authority to regard the quality of the repair or replacement. Under the options considered, option (a) has a variation of this.

The Chair: We have got to get back to clause-by-clause, our time is very limited.

Ms Poole: Can I ask my question then?

The Chair: Very quickly.

Ms Poole: Okay. As that is obviously something that I would prefer, particularly if you had it in conjunction with a reserve fund but for when the reserve fund was not sufficient to go into the cost pass-through system.

However, one option that I did not see would support the theory that major repairs should be paid for through rents and that a prudent landlord would have been setting aside money throughout the years out of the profits from the rents to pay for major capital repairs. It is not a theory I particularly agree with, but it is a theory that has been advanced.

Is this an option of simply saying capital repairs are in the purview of the landlord, both in determining whether they are necessary and should be done and in paying for them?

Ms Beaumont: It is an option. It is a variation of the option of guideline, because what you are really saying is that you would have the current system, which has 1% in the guideline for capital and that is what you would have. So it is there conceptually; the option under which it would fit is the guideline amount and it would just stay there. You would not pick up the other restrictions. We talk about a lot of possible restrictions or limitations necessary, tenant consent, capping, etc. You simply would not have any of those.

Ms Poole: I should clarify that the option I am talking about that some tenants have proposed to me—

The Chair: Our time has expired for—

Ms Poole: Can I just finish my statement, my sentence?

The Chair: Well, that was—

Ms Poole: Just my sentence. One sentence.

Mr Tilson: How long is your sentence?

Ms Poole: Very short. I just want to clarify that the tenants who have made this proposal to me have not been talking about making an increase added on to the guideline, they have been saying that the existing rents should pay for it and there should be no increase whatsoever.

RESIDENTIAL RENT REGULATION AMENDMENT ACT, 1990

Resuming consideration of Bill 4, An Act to amend the Residential Rent Regulation Act, 1986.

The Chair: Thank you. The standing committee on general government is called to order for the purposes of continuing our clause-by-clause discussion of Bill 4, An Act to amend the Residential Rent Regulation Act, 1986.

Before we adjourned shortly before 12 noon today, the committee was discussing an amendment to section clause 100e(2)(c) and a government motion had been tabled, which was paragraphs 100e(2)(c)(i)(ii) and (iii). It was agreed during discussions that (ii) and (iii) of that initial government motion would be deleted. Further, it was agreed to by the committee that legislative counsel would do a redraft of that government motion and we would consider both simultaneously, as best we could, and then decide on which one the government was going to put

forward. I believe that is what we agreed to, generally speaking. Given that, the clerk has distributed the rewrite and I think it would be appropriate to read it into the record for all of us to know what we are discussing.

Ms Harrington moved that clause 100e(2)(c) of the act as set out in section 8 of the bill, be struck out and the following substituted:

“(c) any increase or decrease of costs arising from changes in interest rate that occur when the landlord renews or refinances a mortgage or loan if,

“(i) that landlord entered into or assumed the mortgage or loan;

“(ii) the mortgage or loan related to the acquisition or construction of the residential complex; and

“(iii) the renewal or refinancing relates to the acquisition or construction of the residential complex.”

Now, it is technically correct that we have one motion on the floor, which received a friendly amendment, and that was to delete two sections. It is technically correct that that motion is on the floor, and it is also a reality that we are discussing another amendment. We can do this with the full consensus of the committee. I believe we have that and we are going to proceed.

Ms Poole: It might be helpful to the committee if I relay the import of a conversation that was held informally among a few members with ministry staff during the break when we were trying to determine the cause of the confusion on this.

I believe that the confusion was created when the minister and I were discussing things such as flipping, financial loss and other provisions. It has been clarified certainly to my satisfaction, that this clause has nothing to do with financial loss or flipping or anything else, it is simply and unequivocally only to deal with the interest rates on mortgages. So that has certainly clarified a number of the concerns I have on this particular provision, both in the earlier wording and in the new wording. It does not deal with what I thought it was dealing with at all, so I do not know if this—

Hon Mr Cooke: Who was most confused, you or I or both of us?

Ms Parrish: It was me.

Ms Poole: Let's be kind to both of us and say the minister and I were equally confused and compounded the situation.

Mr Mahoney: Not to add to the confusion, I think like the new wording, but I want to go through it if I can.

“Any increase or decrease of costs arising from changes in interest rate”—we agree with that—on the renewal or refinancing, and the refinancing could only be done because it had to be renewed, obviously; the term had expired. In other words, he is not refinancing and increasing the amount of the mortgage. We agreed on that. Right?

If the “landlord entered into or assumed the mortgage or loan.” That means that it was perhaps the original mortgage at the time that landlord became the landlord? Is that what—

Ms Beaumont: I think it might be more appropriate for the ministry people to respond to that.

Mr Mahoney: Except that you wrote it.

Ms Beaumont: If there is a question on drafting that you have after they have responded to that, I would be happy to answer it for you.

Ms Poole: Let the record show that Colleen looks very happy about this.

Mr Mahoney: I think she should refer to legislative counsel.

Ms Parrish: There are two things there. One is you assume the mortgage, so that one situation is covered, but it could also be that the landlord entered into the mortgage in the first instance.

410

Mr Mahoney: It could have been a brand-new mortgage that he put on the property.

Ms Parrish: That is correct. It could be assumed or new.

Mr Mahoney: "The mortgage or loan related to the acquisition or construction of the residential complex." What else would it relate to? We are talking about a mortgage that is being renewed.

Are you saying then that if the landlord put a mortgage on the property to build a swimming pool, an existing building and he wanted to build a swimming pool or a recreation centre and he put a mortgage on the property, that would not qualify under this?

Ms Parrish: No, I think all that this is trying to do is to avoid the situation in which what you are dealing with is a renewal of corporate debt. One way you can have debt is to have debt on the property, and that is what we recognize, but you could also have—I could be a holding corporation and what I have is a debenture issue and my debenture issue goes to the market and so on and so forth. All this is trying to do is to say—

Mr Mahoney: So you are just trying to relate it to the hard costs?

Ms Parrish: —the whole is related to this building, in essence.

Mr Mahoney: To the hard costs?

Ms Parrish: As opposed to the financing structure of the corporation or whatever it might be that is out there.

Mr Mahoney: And "the renewal or refinancing relates to the acquisition," so we are talking about a new acquisition in that case.

Ms Parrish: The acquisition by the landlord.

Mr Mahoney: He buys the building, the mortgage that he uses in part to pay for the building, when it comes to for renewal the interest rates are covered, or the increase in the interest rate, and all of those costs can then be passed on in the form of rent increases?

Ms Parrish: The change.

Mr Mahoney: Right. I think I understand it.

Ms Parrish: Perhaps Hansard could record that Colleen Parrish looks happy.

Mr Mahoney: Except that Mr Turnbull has not spoken yet, and he may confuse the whole thing.

Hon Mr Cooke: These things are always temporary.

Mr Mahoney: That is right. Saying I think I understand it is not a commitment.

Mr Turnbull: We will try to keep you happy.

Okay, so we know that we can now under this structure replace an existing mortgage, as long as it relates to the complex, not some corporate refinancing structure. I understand that and I agree with that. This is obviously with respect to existing properties which are owned. And I understand that the minister's objective in this is to prevent what he calls flipping, and I have no problem with the idea of preventing flipping, because it is unreasonable that tenants should bear the cost of a flip. But I am concerned about the fact that we could potentially be creating two classes of building.

I think I will wait until the minister's attention is back. If we had a building which was 30 years old and the mortgage was paid off and an old couple wished to sell this during the period of the moratorium, I believe that an identical property which had a reasonable amount of mortgaging on it might be saleable, albeit at a reduced rate as a result of this bill, but the property which has no financing on it whatsoever you would not allow the financing of that, other than that the new landlord would have to assume all of the cost of financing on him. Is that correct?

Ms Parrish: All this amendment deals with is the change. What I think you are talking about is the capital amount, which is financial loss or economic loss, and this bill—not this section, but this bill—does not allow financial loss or economic loss, which would be the capital appreciation. This particular section, it is true, does not deal with the problem you have addressed. Neither does it hurt the problem. It only deals with interest rate change and in the current RRRA there is a very similar section that deals with interest rate change.

Mr Turnbull: Okay, so long as we understand.

Ms Parrish: There are other sections which deal with financial loss and it is true that those are not brought forward into Bill 4.

Mr Turnbull: Under paragraph 100e(2)(c)(ii) it says, "the mortgage or loan related to the acquisition or construction of a residential complex." We are talking about an acquisition which occurred before the point of renewal. Is that what I understand from this?

Ms Parrish: The acquisition which occurred before what? I am sorry.

Mr Turnbull: If somebody has bought a building, and looking at (c)(ii) it contemplates an acquisition, is that an acquisition that occurred at some earlier date?

Ms Parrish: Yes.

Mr Turnbull: Okay, this clause cannot in any way be related to a new acquisition?

Ms Parrish: No. You have to have an interest rate change. It could occur in a fairly short period of time, but you have to have the change, so it does not relate to the initial cost which a purchaser may pick up on acquiring a property.

Mr Turnbull: Okay, I think you can stay happy, Colleen, in that case.

Ms Parrish: Thank you so much.

The Chair: Any further discussion?

Ms Poole: As I indicated, this new wording certainly satisfies me and I believe from Mr Mahoney's comments that it satisfies him as well and it is our intention as a caucus to support this amendment.

The Chair: Okay, that would entail the withdrawal of the original amendment and—

Ms Harrington: I would like to withdraw my amendment to the original amendment and put forward the further one that we have in front of us.

The Chair: Okay, any discussion on Mrs Harrington's motion? All in favour?

Motion agreed to.

The Chair: Before we go to clause 100e(2)(d), I was asked by committee members to take a moment and ask the committee to consider our schedule for next week. My understanding happens to be that next Tuesday, Wednesday and Thursday were originally scheduled for the committee for further discussion on the consultation paper. It does not appear to me that we are going to finish the clause-by-clause today, so we are going to have to make a decision as to whether or not we are going to proceed with the clause-by-clause next Tuesday, Wednesday or Thursday or whether or not we go for the consultation paper. If that is the case, then the clause-by-clause probably will not start again until we reconvene the Legislature, so I think it is a fairly important decision we are going to make.

Mr Tilson: I believe that our first mandate is to deal with Bill 4. The majority of this committee, at least, has approved the retroactive aspects of it. It appears that is where the committee is going, so it is not going to create a major problem. I continue to be opposed to that and will continue to be opposed here and in the House, but having said that, I still maintain our first priority is with Bill 4.

1420

Mr Abel: I think we have covered about 10 clauses in the last three days and I think there are about 21 or so left to deal with, so obviously we do have a scheduling problem here. Might I suggest that we use Monday as additional time to help us get through the clause-by-clause?

Mr Tilson: Mr Chairman, I can say I have been asking for weeks for you to extend the time. You said you were not going to extend the time, the government members said they were not going to extend the time. I have made complete scheduling of many individuals I plan to see on Monday because of that position of the NDP members of this committee, so I will be unable to attend on Monday.

Mr Turnbull: I too will be unable for exactly the same reasons.

Ms Harrington: We do realize it would be very difficult for most of us.

The Chair: Okay.

Ms Harrington: The only concern I had, of course was that if invitations had been sent out to people to appear on Tuesday, Wednesday and Thursday we would have to deal with that situation today, because if we had cancel, we would have to do that today.

Clerk of the Committee: The subcommittee has asked me to go through the list that they have provided witnesses to be invited to appear next week. The people that list have been contacted and asked, number one, they are interested in appearing on the discussion paper and number two, if they are, would they be prepared to appear next week. At this time, no scheduling has taken place. Everyone understands that if it happens it will be on short notice and what the days are that will be available. When I do start scheduling, which I hope will be today or tomorrow, it will be on a tentative basis.

The Chair: Any further comments?

Mr Abel: It would appear that if the committee is not prepared or not able to sit on Monday, does that suggest that we would have to use next Tuesday, Wednesday or Thursday for clause-by-clause?

The Chair: That is up to the committee.

Mr Abel: I guess I was asking the committee. Sorry Mr Chair.

Ms Poole: Or part of it.

The Chair: It depends on how much debate is generated, and as was stated earlier today, it is not unusual to go into a committee setting where you have the kind of debate over the wording that we saw over the last motion and then we asked for redrafting. That is not unusual. I do not know if that is going to take place in different sections, different portions of the bill that are remaining. I do know that there are a number of motions that we have not yet dealt with from both the Liberals and the Conservatives, and also the government, and every motion is going to cause discussion. So if you are asking me what my opinion is, my opinion is that we probably will use all three days to go through it. That is my opinion. I may be incorrect.

Ms Poole: It appears there are really only two options before us. One is whether to continue clause-by-clause next week or whether to wait until we come back when the House reconvenes, or on the other hand—what did I say the first time? It has been a long week. We can always shoot through things next week. One is the clause-by-clause or the long-term consultation.

The Chair: She has not been the same since she started talking about market value assessment.

Ms Poole: I know, particularly when the Chair refuses to recognize Mr Turnbull's and my point of order on—

The Chair: You were both wrong.

Ms Poole: We better not get into market value or we will never complete clause-by-clause.

Anyway, the two options: The minister has not spoken as to his priority as to the long-term consultation paper. We did have a brief discussion on it this morning, and I know he wants some action by the committee on that as soon as possible, but our caucus is quite amenable whatever the will of the entire committee is. Does the minister have

reference? I mean, your preference would be to finish clause-by-clause today and finish the long-term consultation paper next week, but I do not think that is reality.

Hon Mr Cooke: I do not think I ever suggested that it was. I think there has always been the understanding that the committee would continue in March on the green paper, but I certainly agree with Mr Tilson that the priority was to be to complete Bill 4 and I think that has been the agreement that the committee has made in the past, that the only deviation from completing Bill 4 was going to be the 8th when the discussion document was tabled with the committee and the committee agreed that it would adjourn till 4 for that day and then we would continue with clause-by-clause until we were completed.

Ms Poole: I certainly concur with that, I was just concerned because one of your comments to me was that you thought we might be cutting short the consultation paper and the committee's consideration of it and I would not want to leave that impression at all. We are quite eager to hear the witnesses on the long-term consultation and it is a matter of whether it is a priority to complete Bill 4 or whether you consider it a priority for us to go right to the long-term consultation. Our agreement, as I understood it, was that we would interrupt clause-by-clause for the long-term consultation and then we would continue clause-by-clause until it was completed, but—

Hon Mr Cooke: I will begin consultations and have already begun consultations on the green paper and we will proceed with as much time as the committee can establish to have its own consultations on the discussion document. That will be entirely up to the committee. I am not a member of the committee.

Ms Poole: Mr Chairman, might I ask a question? If we are going to use next week for clause-by-clause, or part of next week for clause-by-clause, could we have assurance that when the House comes back into session all three focuses will be approaching the House leaders concerning time set aside for this committee to look at the long-term consultation paper when the House is back into session?

The Chair: I remind the committee members of the 12-hour motions that we promised our colleagues we were going to deal with expeditiously. I just remind the committee members of that.

Hon Mr Cooke: We have already approached our House leader.

Mr Brown: The other day when we were discussing this I happened to be in the chair and one of the things that was raised is that there is always some difficulty in holding public hearings when the Legislature is actually in session. The difficulty arises from travelling and our duties that conflict in the House and the bells ringing and the adjournments and the things that are apt to, or sometimes, happen. So I would just, on that practical note, remind the committee that it is sometimes difficult to hold meaningful public hearings when the Legislature is in session.

Mr Owens: May I make a suggestion that perhaps the three party whips take 10 or 15 minutes to take a look at

the business and perhaps set out what is going to prove to be contentious, and what might not prove to be contentious and proceed in that manner? You have several amendments on the topics most likely to promote discussion as we move through the process, so perhaps what we could do is to separate out the issues that we agree on and then begin work on the contentious or most likely to cause discussion issues.

Mr Mahoney: If it is anybody's job—and I am not sure it is—to do that kind of thing, it would not be the whips, it would be the subcommittee.

Mr Owens: Well, they usually form the subcommittee, any committee that I have sat on since coming into this House.

Mr Mahoney: I do not know what the urgency really is, in the sense that Bill 4 is going to be retroactive. That has been clearly laid out by the government. So whether or not it gets passed this afternoon by this committee or next week or March, April or May does not seem to make any difference in the sense that everyone is aware of the retroactivity applications of the bill. The landlords are aware of it, the tenants are aware of it, they know what they are operating under as of 1 October.

Frankly, I think there have been commitments made by the government and by this committee to hear people, to get into the green paper. We have started the process. The Conservative party has attempted and we have attempted, the Liberals, to give more time for the committee to deal with Bill 4 and have been shot down every step of the way in our attempts to do that. We have been quite prepared to sit additional time, extend the hearings, do whatever was reasonable.

Unfortunately, the majority of the members of the opposition on the committee are not available Monday. If they were that might give us an extra day, but I am not so sure that I am prepared to sort of usurp the role of the committee by relegating down to either a steering committee or a subcommittee, or anything of that nature, to make a decision on what we are going to agree to or what we are not.

We all saw this morning that, because these matters tend to be so complex, you get into them and someone else may bring up a point that makes you think of a point. It caused, I think even the minister would agree, confusion from the ministry on exactly what the issue was. There are government amendments and both opposition parties have amendments, and I do not know what the urgency is to ram this thing through committee, particularly considering the retroactivity.

I also object, as I objected on my very first day, on the very first day that the minister was here, to any manipulation of this committee in suggesting that holding up Bill 4 would in effect hold up the long-term consultation paper. We are all interested in a long-term policy in this matter and frankly I think we should do the best we can to get through the amendments that are here, to get as far into the bill as we can and then get on with the plan of the committee, which was to deal with the green paper.

The Chair: Okay, it appears we have two points of view that have been put forward.

Hon Mr Cooke: At least.

The Chair: Two clear points of view: One is to deal with the consultation paper as planned next week and the other is to finish clause-by-clause.

Hon Mr Cooke: Mr Mahoney, I would only say that there was a firm commitment given by your party and by the Conservative Party when we discussed the timing of the tabling of the discussion document when we were all in Windsor and we discussed it over lunch, and there were also obviously discussions by the House leaders. Ms Poole and Mr Tilson will be very much aware of the arrangement that we made in Windsor. If we are to be fair in this place, that arrangement should be implemented. The day to table the document was 18 February and have some discussion, and then there was an agreement we would go back to Bill 4 and do clause-by-clause until it was complete. That is an arrangement that your party and the third party committed themselves to, as did the government.

Ms Poole: Yes, Minister, I can confirm that in Windsor a discussion did take place. Unfortunately, I was not at your table at this luncheon so I got my information second-hand.

Hon Mr Cooke: Mrs O'Neill, I think, spoke on your behalf.

Ms Poole: Yes, from Mrs O'Neill, and she told me that the agreement that had been reached was that on Monday the 18th we would look at the consultation document and then go immediately to clause-by-clause on the Tuesday thereafter. I do not know what discussions took place beyond that. That is what I am aware of.

Mr Chair, might I ask for a five-minute recess when each of our caucuses can determine our position?

The Chair: I would think that it would be fair at this time, because this similar discussion took place in Windsor. We asked the clerk to take down in writing, almost word for word, what we had agreed to do and I think we have found the page where the agreement is contained. So before we adjourn for five minutes, I think we should review what we all think we agreed to in Windsor.

Clerk of the Committee: "It was agreed that the committee schedule for the week of February 18 and 25 be as follows: Monday, February 18, 10 until 12 pm and 2 until 6 pm, ministry discussion paper briefing. Tuesday, February 19, commencement of clause-by-clause, to continue until completion.

Mr Mahoney: What does that mean, "until completion"?

Ms M. Ward: For the rest of our lives.

Mr Mahoney: I do not see a time frame on that. That is my point. I do not know how any group, with respect, could agree that a committee was going to deal with things in a specific fashion. Perhaps if certain confusion had not been put forth on behalf of the government in some of the things that we have dealt with so far, we might have got along quicker. But clearly even the minister did not understand some of the stuff we dealt with this morning. So I do not know that I am prepared to sit back and accept that a

committee, over some lunch in Windsor in a restaurant somewhere, has made an agreement that it is going to slar this legislation through by a specific date and then get on with the green paper. I would highly doubt that Mr O'Neill agreed to anything like that.

The Chair: Okay. It has been requested that we have a five-minute recess. We are going to reconvene at 2:40.

The committee recessed at 1435.

1449

The Vice-Chair: The committee is back in session. see a quorum.

Mr Tilson: Mr Chairman, I just wanted to repeat what I told both the minister and Mrs Poole, that my recollection of the Windsor meeting was that we would obviously try, within a certain time frame, to complete the clause-by-clause and get into the green paper discussions, to make some sort of comment. However, it was also emphasized that clause-by-clause would have priority and that if we were not able to meet it within the time frame—and we obviously have not; here we are at 3 o'clock and we are not going to finish clause-by-clause—it would appear, therefore, that my recollection would be that we would continue on and, if time permitted, we would get into the green paper discussions after clause-by-clause. The only emphasis I make is that the terms of reference from the Legislature were—and it would appear that the clerk has pointed that out to me at least—that we would deal with both of those items, and I would hope that this committee would set enough time in due course to get into clause-by-clause as well.

Hon Mr Cooke: Or to get into the consultation paper

Mr Tilson: I am sorry.

Hon Mr Cooke: Get into everything.

Mr Tilson: Thank you, Minister. To get into the green paper, yes.

Ms Poole: It has been a long year, Mr Chair.

I would concur with what Mr Tilson has said. As far as our caucus is concerned, I do not think we have had any problem with either going to the long-term consultation next week or completing the clause-by-clause. The only reason it was raised at all was that the minister and I had talked briefly about it this morning and he had expressed concern that if clause-by-clause was going into next week it would cut short the long-term consultation process. That is certainly the last thing we want, and as long as we have an agreement that the long-term consultation process will continue once the House is back into session, we are perfectly satisfied to complete clause-by-clause next week.

Ms Harrington: Mr Chairman, I think we have reached a consensus.

The Chair: The consensus is that we are going to proceed with clause-by-clause.

Interjection.

The Chair: What could you add to the subject?

Mr Turnbull: I would just like to point out to the minister that I spoke to the president of one of the tenants groups that has been requested to appear next week

discuss the discussion paper and he was somewhat concerned about the short notice of it and being able to prepare. So it may have some advantages to the groups who want to prepare their papers. That is all I wanted to give by way of clarification.

Hon Mr Cooke: But they would like more consultation during the summer.

Mr Mahoney: Later.

Mr Turnbull: No, it was just he felt rushed.

The Chair: Okay, the matter has been decided.

Mr Turnbull: Two days.

The Chair: Order. The matter has been decided.

The clerk therefore is not going to make any arrangements for these appointments that we had originally talked about until we are finished the clause-by-clause then. Therefore, we are going to proceed. We are at section 100e. Minister, could you give us a short explanation of 100(d), please?

Hon Mr Cooke: Clause 100e(2)(d) deals with financing costs no longer borne. This means financing costs that no longer exist due to the lowering of interest rates if there was a previous rent review order that recognized increased rents due to increased interest rates. The rent reduction is determined by comparing decreases in interest with increases that had occurred after 1 August 1985.

Clause 100e(2)(e) deals with reduction in rents where there is a discontinuance or reduction of services and facilities or a deterioration in the standard of maintenance. For example, a discontinuance of service could be a closure of the swimming pool and a deterioration in the standard of maintenance could be the landlord stops mowing the grass.

The Chair: Okay, we are going to deal with clause (d) first. All in favour of clause 100e(2)(d)? Carried.

I believe you have given us your description of clause (e) also in your short description a moment ago. I understand there is a Liberal motion to clause (e).

Ms Poole moves that subsection 100e(2) of the act, as set out in section 8 of the bill, be amended by adding the following clause:

“(f) any capital expenditure no longer borne in an amount up to the amount that was allowed in a previous order under this act or the Residential Tenancies Act.”

Ms Poole: Mr Chair, would you like a brief explanation of the reasons for this?

The Chair: Yes, I would, please.

Ms Poole: Under the RRRA at the present time there is a costs-no-longer-borne provision. Take an example of fridges and stoves. In the back of the RRRA it has an amortization period for the lifetime, useful life expectancy of certain items, and for instance for a stove it is 10 years and for a fridge it is 10 years. Under this provision, if the landlord at the end of 10 years were to buy a new fridge and stove, then the only additional rent increase that landlord could charge would be the difference between what he had charged for the first fridges and stoves and the new ones that he was replacing them with.

However, what has happened is that in the meantime many landlords have not replaced those fridges and stoves

in 10 years, they have been replaced in 20 years, so that for that 10-year period the landlord would continue to receive those rent increases from the tenant even though the amortization period has ended and the full cost of the fridge and stove and interest have been recovered.

So this provision was to rectify that hiatus when a landlord could continue receiving rent increases for an item that had already been paid for. It is not, I think, anything that defies or flies in the face of the principle of Bill 4, it simply is a tenant protection which should have been in there to begin with and a clarification of the extent of the cost-no-longer-borne provision in the RRRA.

Mr Turnbull: Our Conservative caucus is in favour of this, although we would say that potentially there is a further problem which perhaps can be better reflected in the permanent legislation in that we are still compounding based upon the capital amount of the appliance even though it is going to be backed out, and I see the recommendation in the discussion paper that it be handled as a separate item and that you do not increase the base rent based upon the appliance. That was simply an amortization period added and you do not compound based upon that included in the rent.

Hon Mr Cooke: Specifically on the amendment, I think that if you consider that Bill 4 addresses capital in a particular way—for the time that Bill 4 is in place, capital is not going to be passed through because we have a moratorium—then the whole issue of cost no longer borne is not something that needs to be addressed during the moratorium period. I do believe it is an issue that needs to be addressed in the permanent system, and I philosophically entirely agree with the types of comments that the Liberal critic is making, but if we were to beef up the provision of cost no longer borne and then allow tenants during the moratorium period to start applying for reductions in rent from the last five years, I think it would, number one, increase the number of cases that we would have going through the system during the moratorium period, which would cause some difficulties during the transition period as we move on to a new permanent system, and I think this is a particularly complex area that should be left to the permanent legislation.

Ms Poole: I am glad that philosophically you agree with this provision, but the fact of the matter is we are not only talking about capital expenditures for the moratorium period, we are talking capital expenditures for replacements that have been made in the past under the RTA or the RRRA, and many of them are now in the stage where the amortization period is ending or has ended and yet there is nothing for the next year or two or however long this interim legislation is in place to give tenants relief.

For instance, a washing machine is five years for amortization or useful life expectancy, so there would be landlords in large buildings who have a number of washing machines that have been paid for and those tenants will continue to pay those rents, the same for fridges and stoves, appliances, electrical work, all sorts of things.

I do not see where it complicates anything. The ministry would have records. Rent review would have records

of these capital expenditures on their computer and it would be very easy for them to send out notification to tenants, just telling them that the cost-no-longer-borne section is going to mean that they no longer have to pay X amount of rent increase and that they can deduct that much from their rent in future. Certainly it could be dealt with through regulations as far as the practicalities of it are concerned, but I maintain that if the principle is adequate and can be supported and if it does not interfere with what the minister has said is the principle of this bill and the principle of the moratorium, I do not see why we would not make this change right now.

1500

Hon Mr Cooke: The one aspect where I think you are incorrect is that the only way this could be accessed would be if there was a whole-building application by a landlord—this would not be some notice that would go out to tenants—and that a reduction would take place because the amortization period was over. The only way it would result would be if there was an application for whole-building review from a landlord, so it would not happen uniformly. It would only happen where there is a whole-building review, an application from the landlord.

And I think, and you may disagree with me, we had discussions, certainly when we were drafting Bill 4, about this whole area, but we felt that during the moratorium period to add this type of a section would be sending a message that not only are we having a moratorium on capital pass-through for a period while we develop the long-term legislation, but we are also saying that there can be reduction in rents during the moratorium and that would be even more difficult for landlords in the province to accept. So we thought that the cost-no-longer-borne issue should be held over for the permanent legislation, rather than adding another section which would be seen by landlords as being terribly unfair.

Ms Poole: In regard to your comments, it is quite accurate that it could be dealt with by way of application under whole-building review. However, that is not what I am suggesting. I do not see any reason why we would have to be tied to that. If indeed rent review does have computerized records of rent increases in the province and the rationale for them, then what I am suggesting is that the regulations could allow that rent review would automatically send out a notice to tenants advising them that the amortization period is past and that they would be entitled to a rent reduction.

Hon Mr Cooke: Colleen Parrish indicates that that could not happen without further amendments to the act. It just could not happen with your amendment alone. There would have to be further amendments.

Ms Poole: My understanding is that a section that we have already passed, 100b(3), which says, "Part VI does not apply where this part applies, unless this part provides otherwise," which none of us understood, did all sorts of marvellous things to the RRRA that we did not know happened until after we had voted for it. I would suspect that that probably also voided provisions about whole-building applications, and I am quite happy to have a friendly

amendment providing that the regulations as prescribe could deal with the practicalities of this.

Hon Mr Cooke: To follow on what you are saying that not only whole-building reviews but then everybody whose capital expenditures had gone through the amortization period would automatically get a notice from the ministry or from the rent review division that their rents would be reduced, I am not sure if you mean that they would be reduced automatically. There would not be a hearing or anything, they would just be reduced?

Ms Poole: That is right, according to the rent review orders.

Hon Mr Cooke: I am not quite sure how many more staff that would require over at the ministry to do that and how many more hundreds of thousands, if not millions, of dollars it would require. I just think that during the moratorium period to do that and to unilaterally, I guess, reduce rents to that extent across the province would be seen by landlords as being terribly unfair when you at the same time have a moratorium. I just think the cost-no-longer-borne issue has to be held off until the permanent legislation.

Ms Poole: Well, with due respect, what you have taken away from rent review through this act is quite significant. The types of decisions that rent review administrators would normally be having to decide upon, whether it be relating to capital expenditures, whether it be relating to financial loss, economic loss, equalization, they are not going to be doing that any more. We already have a very magnificent staff in both quality and number at rent review and I hardly think that this is going to cause millions of dollars in extra expenditures. I would say that the staff we already have hired might well be put to work making sure that tenants receive this protection.

Hon Mr Cooke: We are doing everything we can with the staff in the ministry right now to get the registry up and running after five years of it not up and running yet. It would be an administrative—it will be very interesting.

Ms Poole: Unless anybody else has comments, I think we may as well—

The Chair: Mr Mahoney has some comments.

Mr Mahoney: I know the feeling that you are expressing, that we may as well just vote on it and get it over with, but I cannot help but make the comment about the inconsistencies, that what seems like a really good idea and receives philosophical support in the long-term paper cannot be dealt with here. The same issue occurred with interest rates. We dealt with an amendment this morning that allows for the pass-through to tenants of the increase in the interest rates in situations, and yet the green paper recommends that that not be allowed, that that be excluded.

I mean, it is almost a deliberate attempt to confuse the issue so that the tenants and the public follow some political agenda instead of the reality of what we are dealing with.

The Chair: Any further comments?

Ms Poole: Mr Chair, I would ask for a recorded vote.

The Chair: Any further comments? Okay. We are voting on Ms Poole's amendment. We all know what it is. We do not need to hear it again.

The committee divided on Ms Poole's motion, which was negated on the following vote:

Ayes—4

Brown, Mahoney, Poole, Turnbull.

Nays—5

Abel, Cooper, Harrington, Owens, Ward.

The Chair: The amendment is defeated.

Hon Mr Cooke: But we will certainly—

Mr Mahoney: Don't any of you guys go to the washroom?

Hon Mr Cooke: But your vote has certainly been recorded for the permanent legislation.

Ms Poole: No problem about that, Mr Chair.

Hon Mr Cooke: No, I know. I am looking particularly at Mr Turnbull.

Mr Turnbull: I am going to have many words to speak about before the permanent legislation, I assure you.

The Chair: Ms Poole moves that subsection 100e(2) of the act, as set out in section 8 of the bill, be amended by adding the following clause:

“(g) any conditional order made under section 88 or 89 on or before 28 November 1990.”

Discussion?

510

Ms Poole: The effect of this amendment would be to say that any conditional order that was made prior to the introduction of this legislation should stand under full force and effect of the law. As members are aware from testimony that has been before us, under the RRRA there was a provision that a landlord could go to rent review and get an order prior to commencing capital improvements. Formally, the type of landlord who would ask for a conditional order would be your small landlord, particularly a landlord who perhaps is more cautious and wants to make sure, before he went ahead with capital expenditures and spending money, that he would be able to recoup his costs. We certainly had testimony before this committee, and I think individually as members, as to the hardship this has created for a number of people who did get the conditional order, who went ahead and did the capital repairs under an order of rent review, and then after the fact were told that even though they had a guarantee from rent review that they would be able to have cost pass-through, now under Bill 4 those conditional orders are voided.

I think it is a matter of fairness. I know when I have discussed this with the minister that he has indicated that there has been a lot of discussion about this, there has been a lot of concern at the ministry about conditional orders. It is a very different situation than the normal retroactivity. These are people who really needed to be sure of the guarantee of the law before they went ahead, and they had that guarantee. Under a conditional order, the Rent Review Hearings Board makes a decision that if the landlord fulfils

certain conditions then he may have a certain rent increase. It is that clear-cut.

The obligations on the landlord are to fulfil the conditions. The obligation on the part of the government is then to allow those rent increases. I have specifically provided this amendment under separate cover than any other retroactive amendment. I think it is one that members should seriously consider supporting no matter what their feelings about retroactivity and Bill 4. In the name of fairness, I would ask for the support of all members, government members and opposition members, to provide an opportunity for these people to have fairness under the law.

Mr Turnbull: It is very clear that we are against any retroactivity, but the particular form of retroactivity that reaches back and ignores conditional orders where people have gone to the trouble of going to the government and asking the ministry if this would be in order—they have laid out their plan of action and their budget and the ministry has said that, “Provided you comply with all of those items we will grant you this increase”—if you do not pass this, you have not got any chance of fairness, and I certainly hope you do vote for it.

In the audience today we have the representative of Kaneff Properties, which has \$12.5 million worth of conditional orders. I know the government may look at them as being big, fat-cat landlords, but these are people who over the years have consistently provided good, quality housing and have been one of the mainstays of rental housing in this province. They were extremely cautious, careful landlords who went the route of the conditional order and said: “It's not sufficient just to build. We will go that extra step and make sure that everything we do is in accordance with what the government of the day wishes.”

There can be no doubt about it, if you do not vote with this amendment you strike a blow at the whole system of justice that we have relied on in this country.

The Chair: We have the minister, then we have Ms Harrington, then we have Mr Mahoney and then Ms Poole.

Hon Mr Cooke: I am advised that if we were even to proceed with this amendment we would have to make some changes to the amendment as it is currently worded. I have also asked the ministry to prepare some additional information for me to better analyse this particular section and this particular effect of the bill. I guess what I am asking the committee is if it would agree to stand down this particular amendment while we do some more work on this. I would be prepared to deal with it next week. I am not making a commitment today that this type of amendment is going to be accepted. I want further analysis of it so that I can take another look at it. We will do that over the next few days and come back to the committee if the mover of the motion would be agreeable to standing down the amendment.

The Chair: Okay?

Ms Poole: I would be amenable to standing down this motion, particularly with the minister's undertaking that he is reconsidering and looking at further evidence.

The Chair: Okay, we are going to stand down Ms Poole's amendment.

I am instructed that we have another motion. I am instructed it is Ms Poole's motion.

Ms Poole moves that subsection 100e(2) of the act, as set out in section 8 of the bill be amended by adding the following clause:

"(h) subject to subsection (7a), (7b) and (7c), capital expenditures that, in the opinion of the minister, are necessary to ensure the structural soundness of the residential complex or the health or safety of the tenants or that are supported by a petition of at least two thirds of the tenants of the residential complex;"

Ms Poole: Although it is out of sync with the numbers in this bill, there were three provisions that were attached to this amendment. Again, simply because of numbering sequence, I had to put them, on the advice of legislative counsel, as 7a, 7b and 7c, and with your permission I would like to deal with this as a whole. The import of my amendment does not represent the full entirety of what I am putting forward unless these four provisions are considered as a whole. We will also save debating it four different times.

The Chair: My advice is that if the committee agrees, we can deal with it as a whole, but the votes are separate. Okay, we have a consensus. Please proceed.

Ms Poole: Okay. Would it be in order for me to read (7a), (7b) and (7c), so that the committee can understand them in their entirety?

The Chair: I think it would be helpful.

Ms Poole: I move that section 100e of the act, as set out in section 8 of the bill, be amended by adding the following subsections:

"(7a) The minister may disallow part or all of any capital expenditures under clause (2)(h) that, in his or her opinion, were required as a result of the ongoing, deliberate neglect of maintenance and repair of the residential complex.

"(7b) The minister shall consider evidence submitted as to the quality and value for money of the repair, replacement or renovation when determining the amount of the increase under clause (2)(h).

"(7c) The maximum amount the minister may allow in a determination under clause (2)(h) is 5% of the gross potential rent."

1520

I apologize to the committee if any of the clauses, subs or anything else was misspoken, but I am not a lawyer, so I do not pretend to know which are subs and which are sections and so on and so forth.

These four provisions together deal with a concern that I have had, not only under Bill 4 but for the time that I have been a member of this Legislature, dealing with capital expenditures. One of the major concerns I have had under Bill 4 is that there is no provision for capital replacements, no provision for major repairs and no provision for what happens to buildings that are halfway through major repairs.

I would like to take a closer look at what Bill 4 will do if it is not amended. First of all, it has virtually ensured that little or no capital improvements or major repairs will be done in the province over the next year or two or how-

ever long the moratorium lasts. I know the minister has expressed the viewpoint that not a lot can happen in the two years or the year or however long the moratorium lasts, but I think to say that is not considering the state of our aging housing stock. I gave some statistics in the House back in November which I think would bear repeating.

Of our housing stock, 80% was built pre-1976, so that 80% of our housing stock is over 15 years old; almost two thirds was built pre-1970, so that means it is 20 years old or older; over a third was built pre-1960, which means it is 30 years or over; and close to 10% was built pre-1920 which makes it 70 years or older. Buildings that are 20 or 40 or 50 years old need major replacements and repairs and if they do not get that work, they can degenerate into slums quite quickly.

We have all heard evidence from expert presenters and from people who have presented to our committee, that cement corrodes, electrical work fails, water penetrates, caulking and roofing, balconies disintegrate, parking garages disintegrate and fall victim to salt corrosion, elevators wear out and plumbing needs to be replaced. I do not think any member of this committee disputes those facts. The minister's response, on a number of occasions when I have heard him speak, has been, "If they had done proper maintenance, these things would not happen." But that just does not make sense. We have heard that expert testimony, and they are saying these are things that do not depend on day-to-day maintenance, as far as their replacement is concerned. It has nothing to do with whether the ongoing repairs done to the building were performed. It has more to do with the fact that our climate in Canada goes from a variety of 40 or 45 degrees centigrade down to minus 10 degrees, and this variation in temperature has a tremendous effect on the deterioration of cement and the corrosion of it. And all these factors are very crucial.

You may say, "The moratorium's not going to last that long and we'll have provisions in our long-term legislation, so why bother about it?" It is not that simple, because I can tell you that small repairs will become major repairs; things that should be fixed now and which are not, may never be fixed, particularly if the landlords do not feel that the long-term solution is beneficial. In the meantime we are going to have tenants phoning our offices, and I can assure you they will be phoning you as MPPs, and they will be saying, "But I've got no heat, and the landlord says he won't put in the new boiler even though six months ago he told me that he'd ordered one." And the fact is, he ordered it but under Bill 4 he cancelled the order. I have had buildings in my riding which time and time again they have repaired but the repair just will not hold because the boiler has reached the end of its useful life expectancy. It has to be replaced.

You may think that the only thing that tenants care about is rent increases, and I will grant you it is a very important priority for tenants, what rents they pay, but of equal concern to tenants is that they have a good, clean, decent, well-maintained place to stay. Not only are we not going to have major repairs done, I would submit to you that under this legislation landlords are going to abrogate

their responsibilities for even the day-to-day repairs that tenants may have been enjoying in their buildings. I am not talking about slum landlords, the kind for which I have absolutely no tolerance or sympathy; I am talking about landlords who are simply frustrated, fed up with the system and cannot believe that this is happening. They say, "The extras won't be there. I don't care any more," and that is the worst part of it, that they say they do not care.

I am going to show members a picture, if I can find it. This is one of the buildings on Antrim Crescent. You can tell that it does not look too great and I do not think any of you would like to be living in that kind of state right now. That building was in the middle of renovation when Bill 4 was introduced. The renovations were for what I think all of you would say, necessary capital repairs. It involved new roofs, replacing the corroded cement on these balconies which are in this picture, emergency generators, improved lighting, repairing the salt corrosion in the underground garages, major repairs and replacements for the elevators and fire pumps. The landlord contacted me and said he had halted all construction on the site, and this involved, I believe, five or six buildings, a huge number of tenants involved. He had halted construction and I went out there one week later and that was the state. He said he was going to finish up anything that would be a safety hazard to the tenants and everything else he was just going to stop.

Unfortunately, if we do not have any provision under Bill 4 for dealing with that necessary capital work, those tenants are going to be stuck in that kind of accommodation until the moratorium is over, and perhaps longer if there is no provision in the long-term legislation for capital repairs. I do not consider that to be tenant protection, quite frankly; I consider it to be a myopic view that tenants only are concerned about rent increases and do not care about maintenance and do not care about the type of accommodation that they live in. I am not positive, but I drove up to Scarborough to see these buildings and I believe they are Mr. Speaker's riding, Mr. Warner's, and I do not think he is going to be very happy once the calls start coming in and saying, "But the landlord isn't doing anything about this mess."

Now, speaking specifically to my amendment, if I can find it here, there are a number of things that I have always insisted should be part of any capital expenditures cost pass-through. The first is that the repairs should be necessary, and the minister has spoken to the difficulty on previous occasions of defining "necessary," but I can tell you that less than a year and a half ago, I believe it was 30 October 1989, I tabled with the Ministry of Housing a provision to change a regulation that would have defined "necessary" and would have given the ministry and rent review the prerogative of limiting capital replacements to necessary repairs.

The comments of the minister at the time were not with the difficulty of defining necessary repairs; what he said about it is, "Dianne, I want to deal with the luxury renovation problem through regulations because I can get it through a lot more quickly." And he said, "What you are suggesting would need a legislative amendment." So he

said, "Until we do our review of this legislation, we're going to have to deal with it in a different way."

1530

Ladies and gentlemen, this is legislation. This is not regulation. It is not beyond the scope of this bill before us and in fact I think it would enhance tenant protection and it would mean that we as members could be assured that necessary capital work was being done.

I have provided a number of safeguards. First is that it is an opinion of the minister. As you know, this is terminology which refers to the minister or his or her representatives, so it is really the Ministry of Housing that would be making these decisions, and they would weigh evidence as to whether it affected the structural soundness of the residential complex or the health or the safety of the tenants; and those should be prime considerations, because if there is a fire hazard and the landlord does not take care of it and replace that wiring, it may be all well and good to say, "Well, the municipality can get a work order and fix it," but you have probably already heard about the state of work orders from the municipality and the trouble enforcing them. It is not working. Landlords can give the run-around to municipalities and standards boards and building inspectors for months and even years, and if the landlord says, "Hey, you can't get blood from a stone," then we are back to square one.

So those were necessary components. I said to ministry staff earlier I am so mind-boggled by Bill 4 that every time I use the word "necessary" these days I tend to add "repair" automatically. It seems there is nothing else in my life but this bill, but I feel these are necessary components for any capital expenditure cost pass-through that we allow.

I have also added another provision, and that is if there is support by the tenants, because there are repairs or replacements that the tenants might actually want, particularly in smaller units where he might only have four tenants and they say: "Well, we really want this, and maybe it doesn't affect the structural soundness, but quite frankly, I think this hallway looks terrible. I am embarrassed to have people in and I want this to have decent carpeting on and I want the wallpaper done." If those tenants are in agreement, then I do not see why we as legislators should be saying to them that, if all parties agree, it should not be allowed.

You might say, "Well, that would drive rents up," but—aha—I have thought of that. That is where the second part, going over to (7a), (7b) and (7c), comes in, that these repairs would be capped at 5%. That would be the maximum. And again, the landlord would have to prove that they were necessary, that the structural soundness of the building was in jeopardy or the health or safety was in jeopardy or that the tenants wanted these repairs.

The cap is a vital component of this, but not the only component. I have also been concerned that landlords who have neglected their building will be the ones rewarded and allowed to come forward and say, "Aha, I have neglected the building so that it's in a state of jeopardy. Therefore you guys should reward me and allow me to have a rent increase and up the rents." I did not want that

to happen either, so I have put in a provision for "ongoing, deliberate neglect of maintenance and repair of the residential complex."

Now this is different than ongoing, deliberate neglect that there is a provision for under the RRRRA. One of the difficulties under the RRRRA with the provision about ongoing, deliberate neglect is that it was tied to the landlord. It was tied to the owner of the building and in many cases what had happened was that the neglect was not caused by the current owner, it was caused by a previous owner, so the tenant was helpless to get any type of remedy for ongoing, deliberate neglect because the building had changed hands. So I have tied this not to ongoing, deliberate neglect by a landlord but ongoing, deliberate neglect of the residential complex so that it transcends one owner or two owners or however many there were.

My feeling is that if the current owner bought that building in a state of neglect, that owner would have gotten a good deal. He or she would have paid far less for that building than if the building had been in a state of good repair, so I do not see that that owner should be exempt from providing good accommodation for those tenants simply by the fact that when he or she bought the building it was in a rundown state. So I hope that would address your concerns, if any, about the ongoing deliberate neglect.

Subsection 100e(7b) was a provision which I added because it is one of my own personal hobby horses, and that came about because of a rent increase demanded by the landlord of the buildings 221 and 265 Balliol. I think members will recall that they attended with Mr Walker at the hearing. They were the ones who obtained an injunction from the courts to stop the landlord's work on that building.

One of the main problems the tenants in that building had was that the landlord tore out perfectly good kitchen cabinets and replaced them with very, very shoddy cabinets, that the end result of the work was that they had far less than they started out with and that they were not happy with the quality of the repairs. The other problem they had was that there was excessive money charged for these repairs and replacements.

Let me give you an example. I believe it was \$68 per square metre that the landlord charged for the carpeting in the hallway, and my understanding is that industrial grey carpeting runs about \$19 to \$20 a square metre. This carpeting was wearing out within a year because of its shoddy quality. He paid an exorbitant price and the tenants had various serious allegations, which they could substantiate, that there was a middleman who was not at arm's length to the landlord who was creaming off money in the middle so that the landlord was getting not only the rent increase for \$68 per square metre, but the landlord was also making a hefty little profit in the middle. Unfortunately, the only remedy that those tenants had would have been to go to court and prove these allegations and substantiate them.

I had a meeting with John Bassel of FRPO at the time, because he was very concerned when I was raising these matters in the Legislature. He looked at the cost-revenue statement and he said, "I can't believe the type of money that this landlord put in." We were talking a couple of

million of dollars for the two buildings; I believe it was couple of million for windows that he said there is no way those windows should have cost that much.

So those two provisions, the quality and value for money, I felt tenants should be able to have that as a defence that, if the landlord was ripping them off, why should the landlord be able to claim that? The landlord should only be able to get the rent increase for the value that repair.

So that is a description of the major provisions of the amendment that I have proposed. I just would ask members to seriously consider adopting this amendment. It does not gut or I think interfere with the moratorium or the principle of the bill. I think you would find that many tenants in the long term were very grateful for them.

1540

And I would ask you to consider when you vote on this that if you do not support it, the first time a landlord calls the phones and says he is closing down the underground parking garage and 400 tenants have no parking because I cannot ensure the safety of the building, if the salt corrosion continues and he does not have the money to do that replacement, I hope you will accept that landlord's calls. I hope you will accept those tenant calls. The first time like I say, that in November and December of next year when the heat is off, or maybe even sooner, and the landlord says: "No, I'm not going to replace this boiler. I've repaired it 20 times, but I cannot repair it any more. The boiler needs to be replaced, but I am not doing it," I hope you will be the ones that have to deal with that. I have a funny feeling that instead it will be my office that tries to clean that up.

I hope you will consider supporting this amendment. I think it is reasonable. I do not think it will deal with outrageous rent increases, and not every building will have a landlord who will apply under it, but it will provide a safeguard for those tenants who feel their health and safety is in jeopardy or that there are certain elements of the building that are going to deteriorate and be in very rough shape if it does not get the necessary repairs. It also provides an element of tenant participation so that when tenants want certain work done, they have that right under your Bill 4. Mr Chair, those are my very brief comments under this section.

The Chair: Very good.

Ms Poole: That was only part one.

Mr Turnbull: I am very sympathetic to all of the points made by Ms Poole. However, we will not be supporting it. We are going to bring in our own amendment which, I respectfully say, in most respects are more restrictive on the landlords than the ones brought in by Ms Poole. We have actually created a list of those essential repairs which are important for the maintenance of buildings and have codified that in some way, in the hope that the ministry and the members here will accept that we are trying to ensure that just those structural elements and safety elements are considered. And without trying to pre-empt Ms Poole's amendment, I will just simply say that in terms of the allowance for tenants to have input, we have tightened

still further that 75% of tenants would need to vote to have work done.

I think it is tremendously important that the government recognize that at this time, in all of the discussion papers and all of the submissions that we had, it has been identified that there is a need for, conservatively, \$7 billion worth of work that will be required on residential complexes between now and the year 2000. Given the fact that we do have a recession on now, it would seem appropriate that some of those renovations were going forward.

So in this sense I am supporting the spirit of Ms Poole's motion, but I am just simply saying that I will be bringing forward a more detailed, a more restrictive motion, and I do hope that you will consider passing it.

Mr Mahoney: Recorded vote.

The Chair: Thank you for your advance information on your amendments. Are there any other advance amendments we could discuss? I am just teasing, just trying to have some fun, to break the monotony. Any further discussion—

Interjections.

The Chair: Any further—

Mr Mahoney: Could we have a recorded vote on this?

The Chair: No, no, no. Any further discussion on Ms Poole's amendments? Right. You have already spoken, Ms Poole, at length, and no one else has said anything.

Ms Poole: Mr Chair, on a point of order: Not only do I disagree with you on your point of view on market value assessment, and I think Mr Turnbull would concur with me, but I also disagree with your opinion that Mr Turnbull's viewpoint was monotonous. It was most unfair.

The Chair: You are right. I was correct on the first one and incorrect on the second one. You are right.

Ms Poole: I just would have a comment with reference to Mr Turnbull's statement.

The Chair: No, we cannot discuss Mr Turnbull's amendments. We are discussing—

Ms Poole: No, not his amendment, his statement.

The Chair: Which was about his amendments.

Ms Poole: Yes, it was—

Mr Mahoney: It was about her amendment.

Ms Poole: No, it was his comment about support for amendment, Mr Chair.

The Chair: Okay.

Ms Poole: Correct me if I am mistaken, but I thought when I talked to Mr Tilson he said he was going to support me because mine went first and then if it failed, you would be bringing your own in. Far be it from me to sow dissension in the ranks, but this does put you in a real dilemma.

Mr Turnbull: Could I suggest that we have a five-minute—

Ms Poole: Is he around?

Mr Turnbull: No, unfortunately Mr Tilson had to leave. He would have liked to have been here. Clearly we understand that we need the concurrence from the govern-

ment members with any bill, so it was not a question of keeping the numbers here; we need your help anyway. I would suggest that in view of this perhaps we have a five-minute delay and discuss the position.

Mr Mahoney: You want to discuss it with us?

Mr Turnbull: Yes.

Ms Poole: We could officially ask for 20 minutes, but I do not think that would be fair or desirable.

Mr Duignan: Five minutes can be 15 minutes.

Interjection.

The Chair: We will adjourn for five minutes to have private discussions among members of the committee.

The committee recessed at 1546.

1559

The Chair: I would like to call the committee to order, please. The committee had requested a five-minute adjournment to have private discussions among colleagues. Mr Turnbull.

Mr Turnbull: Mr Chair, after having consulted with Ms Poole, I would like to bring forward a friendly amendment to her motion, and that is to clause 100c(2)(h). Where it reads "supported by a petition," second line from the bottom, that would be substituted with the words "supported by consent in writing." I think that addresses one concern I have.

I am particularly concerned that we do this at this time. We want to make sure of the structural integrity of buildings, and given the fact that the building trades are depressed at this moment, I think it is important that we do not cut off work on major repairs to buildings during a recession. So on that note, I would support the motion from Ms Poole with that amendment.

The Chair: Okay, I am going to reread the amendment as amended in a friendly fashion.

Ms Poole: By the way, Mr Chair, just for the record I would say that I accept that friendly amendment.

The Chair: Okay. I will reread the amendment and then we will have discussion.

Moved by Ms Poole that subsection 100e(2) of the act, as set out in section 8 of the bill, be amended by adding the following clause:

"(h) subject to subsections (7a), (7b) and (7c), capital expenditures that, in the opinion of the minister, are necessary to ensure the structural soundness of the residential complex or the health or safety of the tenants or that are supported by consent in writing of at least two thirds of the tenants of the residential complex;"

Discussion?

Ms Harrington: Yes. Briefly, I appreciate the concern that has been expressed both by the third party and the opposition to making sure that landlords do necessary repairs. The relationship between tenants and landlords, I would think, is at the heart of this that we are dealing with, although I must say that there are two problems; first of all, clearly the capital expenditures and the whole issue of tenant approval. You know, both of those things, which are necessary and which are not necessary, will be set out in

the consultation paper. Second, the decision on these types of things, if you think twice on it, obviously it is a very complex matter and it will need an administrative structure to deal with. So I would just like to say that our party at this time, because it is an interim bill, will not be accepting this amendment, but we will be dealing with these issues very shortly.

Ms Poole: I have difficulty with Mrs Harrington's comments that, first, this will be dealt with in the long-term consultation paper and, second, that it requires an administrative structure. We have an administrative structure—it is called rent review—and at last count, I believe, it was costing the taxpayers of this province somewhere in the vicinity of \$40 million a year. I do not see that we are going to need additional people. For one thing, it would give the ministry a very firm testing ground as to what was feasible, so that by the time you are introducing your long-term legislation, and in fact by the time that your long-term legislation passes, you will have a very good idea of whether this system works, whether it is a viable one.

I could read you the option from the long-term consultation paper, and although I had tabled my amendments before release of this paper, much of the wording is the same. So it is a viable option, and it may end up even being the preferred option, and this is an opportunity not only to make sure that tenants are protected over the next year, year and a half, two years or however long the moratorium lasts, but it is also an opportunity to see how viable the system really is. We do not need any extra money. Not one extra dime has to go into it. The system is in place. So as far as administrative structure is concerned, I am afraid that I do not buy that argument, and as far as not including it simply because it is something you are going to look at in the long term, I do not buy that either.

I think that there is not a person whom we have talked to who disagrees that necessary capital expenditures, major repairs and replacements should take place. Everybody agrees it has to be done. What we are going to grapple with is, how should it be paid for. And in the meantime, if you have agreed that it should be done, surely you have to have some provisions for making sure it is done, because I can tell you it is going to be an extremely rare case that it will be done unless you have some sort of mechanism by which there can be a cost pass-through.

I do not want to prolong this debate, but I had hoped that the government members would support this, particularly since many tenants will support this. I think you will find that some time down the road you will have paid the price politically, as well as in other ways, for having ignored capital repairs to our aging housing stock.

Mr Turnbull: As I have said, it has been identified in the discussion paper that \$7 billion worth of needed repairs are going to be needed by the year 2000. We are in a recession. We have seen the government come forward with some efforts at a countercyclical economic policy in that it seeks to prime the pump in some modest way with the hope of offsetting the ravages of the inflation. I cannot think of a better time to be doing major structural work than at the moment. The cost will be the lowest because

there are people who need work and you are going to have very keen contract workers who need to be employed. We have seen workers here. We know they are out of work. We have a letter on file since yesterday from the law firm of Koskie and Minsky, representing the various tradespeople from Metropolitan Toronto, emphasizing the danger of this type of legislation, and we have seen in expert testimony from the ministry staff that fully two thirds of the work is necessary by their very small-c conservative assessment of what is necessary.

I would suggest, frankly, that people who have a stock that is not working would say it is necessary. But be that as it may, we are talking about structural repairs needed to the safety and the structural integrity of buildings. Surely at a time that we are in the midst of a recession—and we often the tradespeople we are talking about are your natural supporters—you do not want to cut off this work, and at a time that it is going to be done more cost-effectively than it could have been done for the last several years, I am most concerned that you consider the impact on jobs and the fact that your own ministry has identified this need for work to be done. And you are not going to get it done under Bill 4. It is absolutely inconceivable that a landlord will commence any capital work during this moratorium.

The Chair: Any further discussion?

Mr Mahoney: Recorded vote.

The Chair: The minister has a comment to make.

Hon Mr Cooke: Just very briefly, I think that I understand the point that the Liberal Housing critic and a member of the third party are saying today, as they have said in the past. I have tried to explain, on behalf of the government, the point that we have indicated right from the beginning, that Bill 4 is an interim piece of legislation that we believe we have to find a fairer mechanism to deal with capital on a long-term basis. We have not found that mechanism yet. The green paper outlines some of the options, and through the consultation process I hope that we will all be able to find a mechanism that will work.

1610

It is not as easy as to just say that the minister will decide what is necessary, what is not necessary, that tenants will be able to vote on it. There are many tenants and many tenant organizations that very much oppose the concept of having votes in buildings because of the difficulty in the process, and whether pressure is put on certain tenants and how that can work. What happens, if your requirement is 66% or 75%, what about the tenants who vote against the repairs to the building? What about the impact on rents for those tenants who cannot afford it, who have voted against? Those are all areas that we have to take into consideration. It may be in the end that when we have had sufficient consultation there will be mechanisms that we can find where tenant participation can be part of the permanent system; I do not know. I want to hear about that during the consultation period.

There definitely will have to be mechanisms to deal with capital, whether it is through a capital reserve fund or whether it is other mechanisms that we have outlined

green paper. Those are questions that we will want to hear from people about right across the province.

But I think to accept this series of amendments would be to assume that we have found the permanent solution, which we have not; and I do not believe this is workable and I do not believe that it is the proper solution. I think at the entire mechanism that we have spelled out for the people of the province of a moratorium for a period, the consultation document, the legislation for this summer, that is all part of a process, and the temporary moratorium is a very essential part of the process.

I know we will continue to hear from the Liberal and Conservative spokespeople that the sky is falling as a result of this bill, and I just do not believe that is the case.

I do believe that there were significant problems under Bill 51. The Liberal Housing critic, when she was a member of the governing party, recognized that there were those significant problems. They had to be dealt with. It was a promise that we made before the election and during the election, that we would follow through on those commitments. We have done that.

We also, quite frankly, and I would be the first to admit, have varied from the commitment that we made in the election. We have come to the conclusion that we cannot just have a straight guideline in the permanent system, but we have to have a variance and a mechanism that deals with capital, so we are proceeding in that way. But during the moratorium period it would be wrong to try to amend Bill 51 by accepting these types of amendments. Let us work together and try to find the permanent system that will work.

In the meantime, there are landlords across this province who have year after year after year invested money in their buildings to maintain those buildings with the rents they receive. Not every landlord who has put capital into a building goes through the rent review system. They will continue to do that. You know that and I know that. If a parking garage is in a poor state of repair today, in 1991, it was in a poor state of repair four months ago. You know that and I know that. And those kinds of repairs we expect landlords to continue to carry out. We expect buildings to be maintained.

One thing that has certainly bothered me through this entire discussion since 28 November has been the deliberate attempt by the opposition parties to play down the fact that \$8 billion a year is being paid in rent now. That \$8 billion is supposed to pay for something. It is not supposed to just go through and pay for daily maintenance and taxes and other things. There is an expectation that that rent is to pay for the operation of the building and the maintenance of the building, and I think you do a disservice to tenants, you do a disservice to a lot of good landlords in this province who have used that money well and have kept their buildings up, to simply say, "Now, because of Bill 4, you don't have to do anything and you can blame the government." That is inappropriate. That is not the way that it has worked in the past. You know that and I know that.

We will, I believe, develop a permanent system that is fair and will, on a long term, put in place mechanisms that will provide for ongoing maintenance of buildings, not the

type of capital expenditures that were provided for in Bill 51 that encouraged landlords to let their buildings deteriorate and then bunch up capital expenditures and have huge rent increases. That is not the way to manage a housing stock in the province. We want to develop a housing strategy and a rent regulation bill that will encourage ongoing, permanent maintenance of buildings without having huge rent increases that economically evict tenants from their place—their home, not just their apartment, but their home.

So we cannot accept this series of amendments, and you can continue to describe it in any way you want, but the fact of the matter is that there was a need for increased tenant protection and there was a need for a mechanism to find that permanent solution. That is what this moratorium is all about. It provides for better tenant protection, and in the long term we will find a piece of legislation that I think will be workable, unlike the piece of legislation that many people have had to suffer under for many years.

Mr Turnbull: You suggest that we do a disservice to landlords. I would respectfully submit that the landlords who have lived within the guidelines for many years are also the very people who occasionally have had to go for these unusually large capital expenditures. We have had expert testimony before this committee on many occasions which absolutely dispels the myth that you are trying to perpetuate, and that is that somehow it is ongoing neglect which causes the need for major capital items to be done. And I see the minister is not even interested in what we have got to say.

Hon Mr Cooke: Of course I am.

Mr Turnbull: Thank you.

Hon Mr Cooke: I have been hearing it for three months.

Mr Turnbull: And so you should have, because there has been good expert testimony from your own people from the ministry who have said that two thirds of all of the capital expenditures are necessary, and we have also heard testimony that many of these repairs are not a question of neglect, there is a certain lifespan, with the technology of how buildings were built 25 to 35 years ago, that needs to be replaced. When you get to a point where you have got a major capital item, you have to fund it, and contrary to what you are saying, we have also seen sufficient numbers that many landlords in this province are not making profits.

You are saying that there was this expectation from tenants that this money should be put away. Quite frankly, that is a distortion of the facts. We know that there was no allowance to create any capital fund, and we have heard from the ministry testimony to the fact that it was never considered to be the way of funding capital expenditures. Major capital expenditures were always passed through to the tenant, from the very inception of landlord and tenant legislation. Furthermore, there are an awful lot of the buildings which were caught in the initial legislation brought in by the Conservative government, which in fact were making losses at that time, so there could have been no money extra to do those repairs. It has always been

contemplated in legislation that major items would be funded by the tenants.

Now you are saying that somehow the landlords are wrong in wanting the money to do these repairs. This is the time we can get the most cost-effective repairs of buildings. We know the repairs have to be done. We want the housing stock to be maintained so that we can maintain safe housing for the people of this province, that is absolutely essential, and it is ludicrous to suggest that just by ignoring this need for the next year it is not going to impact on the workload. We have people who are workers in this province who need the work and it is work that needs to be done. It is not make-work projects. Surely when the Treasurer is trying to pursue a countercyclical economic program, it is appropriate that the funds be made available to do needed repairs in this province.

1620

Mr Mahoney: I want to thank the minister for relighting the fire in my belly a little bit. I was finding things were bogging down a little, and I guess I needed a lecture and can always appreciate one, as sanctimonious as it might be.

I find it really incredible to have a member of the New Democratic Party, minister or not, tell the opposition that we have been doing a disservice by distorting facts or painting a picture that is less than accurate, when I think of the things that have been said and the dwelling on things like marble lobbies and other luxury renovations and 100% increases and economic evictions. We have been looking for them all over the province, and from the people who came before our committee, we heard of a few economic evictions, we had a few tenants before us, but by and large we were not seeing that, particularly when we got outside of Toronto.

You know, I have made this argument before, but I think it was Mr Brown who said that I had asked numerous presenters before this committee if they could just tell us what there is in Bill 4, other than a cap that protects the tenant, that helps the tenant get renovations, that helps the tenant solve problems, that gets rid of the rats and the other vermin, and the cockroaches, that actually motivates some improvement in the living quality of their particular unit. We asked that question to the city councillors who came before us with their entourage of supporters. We were unable to discern anything in the bill that provided anything beyond the cap and beyond a freeze that would do anything to give any incentive for anyone to improve the situation.

So we are not making up stories, this is reality. We had tenant groups telling us that. We had tenant groups that were actually opposed to the legislation. If I were the minister, I would wonder why. Maybe they have analysed it and they realize that there are some improvements that indeed should be done, particularly in the area of capital.

And to say that we have got this temporary piece of legislation and then speak in favour of the philosophy, as Ms Harrington has done, and supporting the philosophy, to have it addressed in the green paper—as I said earlier, it is doublespeak. It says: “We think it’s a good idea, but we don’t want to do it now. Let’s put in this terrible temporary

legislation, and then we’ll get down and do some serious business later on.”

And the constant reference to Bill 51. We recognize Minister, that you are the government, and barring an early election call, which I assume is not likely, you will be the government for approximately four more years.

Hon Mr Cooke: I could ask your views on that.

Mr Mahoney: You could ask my views on an early election call. Peterson did.

Hon Mr Cooke: What was your advice?

Mr Mahoney: Unfortunately, he listened to me. Interjections.

Mr Mahoney: But in all seriousness, I must wonder who is keeping whom in committee. I hear honourable colleagues opposite say that we are stalling the bill, we are keeping people here. We have an amendment that has been on the floor that has been spoken to at great length in a very articulate way—I had better say that or I am in trouble—and been very forceful in putting it forward. I think the committee was at the point we were almost ready to vote on the thing, and all of a sudden we get a lecture. I mean, I am surprised. You are an experienced legislator and frankly should—I would have thought would—have known better.

The issue of jobs: We have had people before us, you know, we did not make it up. I remember watching the night news on the night of the 28th after your great pronouncement and the shock waves that rolled across the province. It was not someone’s imagination that all the equipment was being taken out of buildings and thrown into the back of trucks and people were going home out of work. Many of those people, tenants, by the way, who no longer have a job with which to pay the rent that you are putting a cap on, I am sure they are very appreciative.

So the fact is that there are opposite points of view, and I respect that, and we have a responsibility to expose and put forward those opposite points of view, as you have done in past years. It is our job and I happen to think we are doing it reasonably well and are probably going to get even better as we get into this role more; and we do not need a lecture about distorting things to tenants, because that is not the case at all. We are repeating the facts that have come in before us as a committee.

We had the folks here showing us the contracts they were losing. We had the folks here, and I have talked about them before, small landlords. You see, you tend to want to hide behind—and the Premier’s statements about, you know, the big, huge numbered companies that own all these rental units—you tend to want to hide behind it just because they are big guys. Iggy Kanefff I guess can afford to lose \$12 million. I doubt it, but you tend to hide behind that. But the small people are the ones, and there are thousands of them around this province, landlords, small landlords who have worked hard to get where they are, and they are not being treated fairly in this bill.

I cannot reargue and will not reargue issues passed and lost on the retroactivity. It is sincerely my hope, and I mean this sincerely, in a spirit of co-operation, that you, Minister, will look very, very carefully at the condition

orders that are out there; and if you come back, I think it could be a major gesture on your part to come back with something that makes sense, that would literally stave off bankruptcy for some of these people.

I just suggest that it is totally unfair to suggest that any member of the opposition is distorting facts or putting facts before tenants or doing them a disservice. Many of the tenants, Minister, you will be, I am sure, delighted to know, happen to agree with us on this and think that this Bill is a travesty.

Ms Poole: Minister, you really should not have baited the bears like this. We were all set to vote until you made your outrageous comments, and the inconsistencies are mind-boggling.

The first inconsistency: You said, "Well, no, sorry, too bad, but can't support your amendment on what to do about major capital repairs because we haven't decided what to do with major capital repairs and we'll be dealing with that in the long-term paper, so we can't put this in right now because that would imply we have a long-term solution." On the other hand, what this committee has heard every single day is that Bill 4 is temporary and the things in Bill 4 will not be in the permanent legislation, that it will be changed.

You have got to get your act together. Either Bill 4 is permanent legislation, therefore you do not want to put this necessary capital stuff in because it predetermines how your long-term solution will turn out, or on the other hand Bill 4 is temporary and all it does is provide a temporary solution to major capital until you bring in your long-term paper.

The minister says things in press conferences, in newspapers, in committee, in the House, such as, "We've always recognized that there's a need for capital." He has not said how he has dealt with it, but he says, "We've already recognized that capital replacements and repairs would have to be dealt with."

But I have before me today a copy of the Hansard from May 1990. It was opposition day, called by the NDP on rent control, and it was a motion brought forward by Mr. Cooke, "...this House calls upon the government to replace the Residential Rent Regulation Act with real rent controls that will allow only one guideline-based rent increase per year with no exemptions."

There was not one word in there about necessary capital expenditures, not one word about how it was to be dealt with. According to Mr. Cooke, less than one year ago, it was irrelevant. It did not need to be dealt with in rent control, whether temporary or long-term or at all.

Now today he is telling us, of course there has got to be a provision for capital. Now that he has got his votes, now that they are the government of Ontario, they do not need to talk about what they did a year ago. That is not good enough, and I particularly resent it when he accuses the Liberal and Conservative caucuses of deliberately attempting to play down the \$8 billion in rent that is paid by tenants every year.

1630

Certainly our caucus, and in defence of the Conservative caucus, neither of us have at any time attempted to play down the fact that large amounts are paid in rent across this province. After all, there are 1.2 million units in this province, so obviously there is going to be a very large rent bill. But that presupposes what I can only call a naïve opinion, that there is always sufficient profit in the rents to take care of major capital expenditures, and it is very clear that this is not true.

There are obviously some landlords who have owned their properties for 25 years, have no mortgage and are in a much more solvent position to pay for capital repairs. Many landlords are not. You want to say across the board that major capital repairs should be paid for out of rent. I would submit to you that you had better have your Ministry of Housing officials get an economic analysis of whether this is feasible before you throw out these idiotic ideas.

I specifically asked the Ministry of Housing staff at lunchtime why that option was not in here, basically not to do anything about major capital but to leave it to the individual landlord to decide what should be done and to pay for it himself or herself. It is not an option in there. Every single option in this rent control issue has some provision that capital repairs would have to be paid for somehow by extra moneys. So I really resent the implication that we are deluding the public or that we are trying to mislead members of this committee, not only on the need for capital repairs but also our position on how they should be provided. I think that what I have provided is a very reasonable compromise of an amendment. It would not result in excessive rents, it would ensure that these capital repairs took place, and, Minister, I really do wish you would revisit this issue. You have to be consistent first and foremost.

Mr Brown: This is really interesting. I was very worried that the minister and the New Democratic caucus had no conception of investment or how economies really work, and for a while there I was thinking maybe—

The Chair: Order, please. These are important comments being made by all members.

Ms Poole: Sorry, the minister asked me for a document.

Mr Brown: I was really quite concerned that they did not understand. For a moment, when he said that in the permanent legislation capital expenditures were going to have to be looked after in some way, I had some hope that he really did understand the issue. Yesterday I had the privilege of going up to the standing committee on estimates for a few minutes and listening to the Minister of Mines at those estimates. He is a very capable person and one I respect very much, and in response to a question from a New Democrat the minister gave what I considered to be one of the best answers regarding investments in markets and how the real world works. I thought: "Things are looking up. They understand." Mr. Pouliot described how exploration work depended on the price of the commodity and how investment works in the mining industry, which is not unlike any other industry.

Mr Mahoney: We all know he's a Liberal.

Mr Brown: I suggested to Mr Pouliot at the end of this conversation with another New Democrat that he speak to Mr Cooke and explain the realities of the real world to Mr Cooke. Apparently they have not had the opportunity to have the conversation, because what the minister just told me is just beyond belief, that they should have the money. Well, maybe they should, but the fact is they do not.

To change gears just for a second, we had a presenter in Ottawa, Minister, a tenant who came before us. His problem was he had voted for you. His problem was he believed what you said.

Mr Turnbull: They know better now.

Mr Brown: He believed that in your Agenda for People—

Mr Mahoney: Agenda for power.

Mr Brown: Well, it appears that way now, Mr Mahoney. It says:

"New Democrats would bring in rent control. That means one increase a year based on inflation. There would be no extra bonuses to landlords for capital or financing costs. It's simple, it's fair, and it avoids the bureaucracy which has frustrated both tenants and small landlords."

Minister, he is disappointed in you because now you are talking about passing capital through. That is what he said. He said: "Boy, now they're going to pass capital through. I can't believe this. Even in Bill 4 they're going to do that." Well, not capital, but for extraordinary expenses. This is what they are going to do. He said: "I can't believe this. That isn't what they said." I, for one, would like to know what happened between 6 September and 28 November that changed your mind, because that is not what your platform was, that is not what you said in the Legislature back in—was it June?

Ms Poole: May.

Mr Brown: May. That is not what you said. What is the difference? For you to make these statements that landlords should have the money, is all well and good, but in the real world "should" and "do" are two different things. If we want capital expenditures to be made to keep parking garages from falling down, there is going to have to be some provision; and no tenant in this province is going to be happy that he cannot use a parking garage because the landlord will not fix it because of Bill 4.

The interesting thing, I think, here is that our arguments could be wrong, your arguments could be wrong, but we are going to know, a year from now we are going to know, we are really going to know, because we are going to be able to look at apartments and say: "Were they kept up better than they were? Is the rental stock in better repair than it was?" So we are going to have a way to measure that, and I suspect that tenants are going to say: "Gee whiz, the Liberals and the Conservatives were right." I think that is what they are going to say. So for you not to adopt Mrs Poole's amendment to support this, you are going to be the ones that have to explain it. Before, you were in opposition and you could say anything you wanted or so you thought—

Mr Mahoney: And did.

Mr Brown: —and did, but now you are in power. This is the real world. This is real action. This is not TS. You are responsible for what you do and people are going to be able to tell whether the policy worked or whether it did not. I would suggest to you the thing is you have already broken your election promise, or are about to. Well, you have, you have broken your election promise. You see, you can deal with this one. This is nothing new. You have broken your specific promise.

So, Minister, I would just hope you will reconsider your position. You know, I think, deep down that capital expenditure will not be done in this province at the rate it was. Further to that, I think you will find that there are more choices in housing that there could be, that there will not be as many new rental units come on to the market this year as there should be. Over the past we know there have not been as many as we need, but I think it is going to get worse. I think we all know it is going to get worse.

With those comments, I would just ask the minister, seeing as we are really going to be able to evaluate what you did, we are really going to know—a year from now what you have done will be history, it will be a matter of fact. It will not be a matter of what I think is the thesis, what you think is the thesis. The facts will be there and I am very confident that if you do not show some flexibility here, the facts will be on our side.

1640

The Chair: I believe that concludes discussion of Mrs Poole's amendment.

Ms Poole: Recorded vote, please.

The Chair: A recorded vote has been requested.

Ms Poole: We are voting just on clause (h)?

The Chair: We are voting on your amendment.

Ms Poole: Yes, the first provision, clause 100e(2)(h).

The Chair: Right.

The committee divided on Ms Poole's motion, which was negated on the following vote:

Ayes—4

Brown, Mahoney, Poole, Turnbull

Nays—6

Abel, Cooper, Duignan, Harrington, Owens, Ward, Mahoney

The Chair: The motion is defeated. We now go to Mr Turnbull's amendment.

Mr Turnbull: It tracks the motion that we have just had from Mrs Poole, but fine-tunes it a little.

The Chair: Mr Turnbull moves that subsection 100e(2) of the act, as set out in section 8 of the bill, amended by adding the following clauses:

"(f) any capital expenditures that in the opinion of the minister are necessary to maintain the structural integrity of the residential complex including,

"(i) repairing or replacing delaminated concrete or steel in an underground parking garage,

"(ii) replacing a roof,

"(iii) converting the residential complex from galvanized to copper plumbing and replacing boilers,

“(iv) repairing cladding on the residential complex,
 “(v) making repairs necessary to protect the safety of
 tenants, and
 “(vi) carrying out energy conservation measures re-
 quired by the Ministry of Energy;
 “(g) any additional capital expenditure if at the time of
 contracting for that expenditure 75% of the tenants whose
 rent would be affected by that expenditure have consented
 to it in writing.”

Mr Turnbull: Since we have had the debate of the
 previous amendment, it would seem unlikely that you are
 going to vote for this, although I would emphasize that we
 have tightened up the definition, we have codified this and
 we have particularly emphasized the question of safety,
 which must be paramount to all of the parties, safety for
 the tenants.

Looking at subclause (vi), this question of energy con-
 servation, your own Minister of Energy has said that you
 do not want to build any further atomic power stations,
 you want to emphasize conservation. Now the facts are
 that we have a tremendous number of buildings in this
 province that are very old buildings and it is a fact, unfor-
 tunately, that as buildings age they settle and the windows
 do not fit as tightly. That is just a given. Also, the majority
 of the older housing stock is single-glazing. I certainly ran
 at the last election very strongly on the fact that we need to
 be environmentally conscious, and in fact I would suggest
 that all three parties fought the last election with, fortu-
 nately, one thing in common, that we all believed that we
 have got to do things for the environment. One of the key
 things we can do that can reduce dependence on fossil
 fuels and the need to build further atomic power stations is
 to go forward with conservation measures that I be-
 lieve the Ministry of Energy is actually contemplating
 mandating.

Now, surely at the time of a recession, as I said before,
 it is appropriate for us to be doing these kinds of works,
 like putting in new, double-glazed windows, when it is
 going to cost less than at any other time. If the economy
 goes back to being warm or even hot again, simple eco-
 nomics say that it is going to be more expensive. A few
 years ago in the Legislature there was a suggestion that
 they replace the windows here in the Legislature. At the
 time the cost estimate was \$2.5 million; it is now up to \$10
 million. It seems appropriate that we would be doing that.

Why did we not say 100% of the tenants voting if they
 wanted something done? Simply because you will never
 get 100% of anybody voting for anything. If we had to
 form a government with 100%, we would have difficulty,
 all of the parties would, but we want to give the ability to
 tenants to mandate that certain things should be done and
 negotiate with the landlord.

Given the fact that there is a great similarity with Mrs
 Poole's amendment, albeit somewhat tightened up, I
 would suggest that we should not spend a great deal of
 time debating it and that we should move forward.

The Chair: Thank you for the amendment, Mr
 Turnbull. Any discussion on this amendment?

Mr Mahoney: Recorded vote.

The Chair: No discussion. A recorded vote has been
 requested. Do we need the amendment read again? No, all
 right.

The committee divided on Mr Turnbull's motion,
 which was negated on the following vote:

Ayes—4

Brown, Mahoney, Poole, Turnbull

Nays—6

Abel, Cooper, Duignan, Harrington, Owens, Ward, M.

The Chair: The amendment is defeated. I believe Mrs
 Poole has another amendment. Mrs Poole, am I correct in
 saying that you have another amendment?

Ms Poole: Yes. Mine is to clause 100e(2)(i) and Mr
 Turnbull appears to have one, clause 100e(2)(h).

The Chair: Let's check the other list there.

Ms Poole: If Mr Turnbull does want to proceed with
 his, I have no problem with that.

The Chair: Okay.

Mr Turnbull moves that subsection 100e(2) of the act,
 as set out in section 8 of the bill, be amended by adding the
 following clause:

“(h) in respect of a residential complex any part of
 which was occupied as a rental unit before 1 January 1976
 the extent to which the rent for the residential complex is a
 chronically depressed rent within the meaning of section
 91.”

Mr Turnbull: This is important when you consider
 there are such restrictive measures being put forward in
 Bill 4 that some landlords with the older complexes are
 going to have great difficulty in maintaining their proper-
 ties. We are concerned about bankruptcies. That is why we
 are bringing forward this needed clause.

The Chair: Is there any further discussion? All in fa-
 vour of Mr Turnbull's amendment?

Mr Mahoney: A recorded vote.

The committee divided on Mr Turnbull's motion,
 which was negated on the following vote:

Ayes—4

Brown, Mahoney, Poole, Turnbull

Nays—6

Abel, Cooper, Duignan, Harrington, Owens, Ward, M.

Ms Poole: By the way, I would officially withdraw
 my amendments for subsections 100e(7a), (7b) and (7c).
 Since my main motion failed, I withdraw those.

1650

The Chair: Okay, but I believe we have a couple of
 amendments prior to that.

Ms Poole moves that subsection 100e(2) of the act, as
 set out in section 8 of the bill, be amended by adding the
 following clause:

“(i) the amount under a notice issued under section 92
 on or before 28 November 1990.”

Discussion?

Ms Poole: To explain the import of this particular amendment: We had decided in our caucus to deal with retroactivity in three separate sections. The first one, which was defeated the other day, applied to capital work that was done; the one that has been tabled today for the minister's consideration on conditional orders will be dealt with next week; and this one is the retroactivity that deals with phase-in orders for financial loss.

As members are aware, there was a provision under the RRRRA that if a landlord was experiencing financial loss, which was usually due to the purchase of a building, he or she could make application to rent review for relief. Under the RRRRA, unlike previous legislation, for the first time this financial loss was capped at 5% a year. Prior to the RRRRA there was no annual limitation on what a landlord could put through for financial loss.

The way the system worked is that rent review would give an order for phase-ins over a number of years to compensate for the financial loss to get the landlord to a break-even point. The typical example would be the phase-ins would occur over five years, with a 5% cap per year.

It is the contention of our caucus that once a rent review order was in place the rent review order should be honoured and we feel this does extend also to the phase-in orders that were ordered by rent review.

So that, in very brief words, is the intent of this particular amendment.

The Chair: Any further discussion?

Mr Turnbull: It is just inconceivable that you can allow people to do work with phase-in orders and then ignore them, and that is all I have got to say. It just flies in the face of democracy.

Ms Poole: Just one final comment. A number of the small landlords who appeared before us in our hearings and broke down were ones who felt they were victims of Bill 4 in that the cancellation of those financial loss orders would put them in a position of jeopardy, that they would face bankruptcy. A number of them indicated that they would lose their life savings.

I can say that financial loss, probably of anything in rent review, gives me the most difficulty as far as a position on it is concerned, but I have a lot of sympathy for tenants who say that a landlord's investment should not be gained at their expense.

On the other hand, the difficulty is that a number of these landlords made their decision to purchase a building, many of them because it was going to be the basis of their retirement, and they did it with the understanding that over a five-year period they could get to a break-even point on the rents. We have heard stories about landlords not being able to refinance their mortgages. One landlord who appeared before us told us that his home had been heavily mortgaged and he feared he would lose his home because of this. So it is obvious that the cancellation of phase-in orders under Bill 4 is going to create hardship in a number of cases. That is all I have to say.

Mr Mahoney: I just want to add that members may recall, and maybe Mrs Poole can help me out, I believe it was a tenant organization in Hamilton that came before us

who addressed the retroactivity issue, and it was not just a small group. Do you recall the name?

Ms Poole: Yes, it was the Housing Help Centre Hamilton-Wentworth.

Mr Mahoney: To paraphrase what they were saying and refresh members' memories, they used words like "Retroactivity is dangerous, retroactivity must be justified," and they said that they saw no attempt by this government to justify, or at least no success in justifying retroactivity. That is not some landlord group with millions of dollars coming forward, that is a tenant representative group that is coming forward and saying that this is unjust.

We have lost the main argument on retroactivity and you have decided that that is the way it is going to be. The minister has indicated that he is prepared to consider some compromise perhaps. I will not put words in his mouth because I hold out some hope that we will come out of this with something on the conditional orders, and I would ask that you look at this in the same light. It really would be difficult to understand how you could justify one and not the other. It is difficult for me to understand how you could justify eliminating either of these, or dealing with the retroactivity issue in any way whatsoever, but you seem bent on doing that and I would ask at the very least that you consider this in the same light as the amendment on conditional orders.

The Chair: Any further discussion?

Mr Mahoney: Do I get a response to that from the minister? I am asking the minister a question.

Hon Mr Cooke: I hesitate to respond, because the last time I responded—

Mr Mahoney: Well, just respond nicely. It is simple.

Hon Mr Cooke: This is another one of the areas of the bill that are, I agree, very difficult, but phase-ins, in my view, were one of the difficult areas of the previous legislation and a way of building in, over a very long period of time, substantial rent increases to tenants, and I would agree with the assessment that has been made by the Liberal Housing critic that this is an area that is of most concern to some of the landlord community. I just would not agree with that assessment of it, but other than that I am not going to address it any further. I am going to try to stay away from the rhetoric and proceed with the bill. I am not prepared to reconsider this section in the temporary legislation.

The Chair: Any further discussion?

Mr Mahoney: Recorded vote.

The committee divided on Ms Poole's motion, which was negated on the following vote:

Ayes—4

Brown, Mahoney, Poole, Turnbull.

Nays—6

Abel, Cooper, Duignan, Harrington, Owens, Ward, 1

The Chair: The amendment is defeated.

An hon member: Do you have to raise your hands in unison?

The Chair: All in favour of clause 100e(2)(e)?

Mr Turnbull: Mr Chairman, was it not agreed that we would go until 5 tonight?

The Chair: Yes.

Mr Turnbull: It is 5 now and I have other commitments.

The Chair: Was there going to be further debate on clause 100e(2)(e)?

Ms Poole: Mr Chair, some time ago, I think this morning, we were talking about subsection 100e(1) and "extraordinary operating cost" and the municipal taxes, and at that time the minister indicated that my amendment, which was 100e(5)(a), I believe, if I can find it in here, the government had agreed to that. Although I do not intend to speak to this, can I have two minutes?

Mr Turnbull: Sure.

Ms Poole: Would you mind? It would make me very happy to think after all those hundreds of hours of work that there was one amendment that I could get through.

The Chair: Mr Turnbull wanted to finish. I have two conflicting opinions.

Ms Poole: Two minutes?

Mr Turnbull: If it is two minutes, okay.

The Chair: Two minutes to do what? Is it two minutes to vote on clause 100e(2)(e) or is it two minutes for Mrs Poole to discuss a different matter?

Mr Owens: Two minutes on her amendment.

The Chair: She has another amendment?

Hon Mr Cooke: There is a difficulty. With the amendments, we are going to find that apparently we have to do subsections 100e(3), (4) and (5) and then—

Ms Poole: Unless we have unanimous consent to take them out of order. Is that not the way it is?

The Chair: We are not going to get it done in two minutes, I assure the committee. Do you want to proceed?

Mr Turnbull: No.

The Chair: We do not have unanimous consent to proceed. I acknowledge that it is now 5 o'clock. The committee stands adjourned until 10 am next Tuesday.

The committee adjourned at 1701.

CONTENTS

Thursday 21 February 1991

Residential Rent Regulation Amendment Act, 1990, Bill 4	.G-7
Afternoon sitting	.G-7
Rent Control	.G-7
Residential Rent Regulation Amendment Act, 1990, Bill 4	.G-7
Adjournment	.G-7

STANDING COMMITTEE ON GENERAL GOVERNMENT

Chair: Mancini, Remo (Essex South L)

Acting Chair: Abel, Donald (Wentworth North NDP)

Vice-Chair: Brown, Michael A. (Algoma-Manitoulin L)

Bisson, Gilles (Cochrane South NDP)

Drainville, Dennis (Victoria-Haliburton NDP)

Duignan, Noel (Halton North NDP)

Harrington, Margaret H. (Niagara Falls NDP)

Mahoney, Steven W. (Mississauga West L)

Mammoliti, George (Yorkview NDP)

Murdoch, Bill (Grey PC)

O'Neill, Yvonne (Ottawa Rideau L)

Scott, Ian G. (St George-St. David L)

Turnbull, David (York Mills PC)

Substitutions:

Cooper, Mike (Kitchener-Wilmot NDP) for Mr Mammoliti

Mahoney, Steven W. (Mississauga West L) for Mrs Y. O'Neill

Owens, Stephen (Scarborough Centre NDP) for Mr Drainville

Poole, Dianne (Eglinton L) for Mr Scott

Tilson, David (Dufferin-Peel PC) for Mr B. Murdoch

Ward, Margery (Don Mills NDP) for Mr Bisson

Clerk: Deller, Deborah

Staff:

Baldwin, Elizabeth, Legislative Counsel

Hunter, Leith, Legislative Counsel

Richmond, Jerry, Research Officer, Legislative Research Service





3-17 1991

G-17 1991

ISSN 1180-5218

Legislative Assembly of Ontario

First Session, 35th Parliament

Assemblée législative de l'Ontario

Première session, 35^e législature

Official Report of Debates (Hansard)

Tuesday 26 February 1991

Journal des débats (Hansard)

Le mardi 26 février 1991

Standing committee on general government

Residential Rent Regulation
Amendment Act, 1990

Comité permanent des affaires gouvernementales

Loi de 1990 modifiant
la réglementation des loyers
d'habitationChair: Remo Mancini
Clerk: Deborah DellerPrésident : Remo Mancini
Greffier : Deborah Deller

Table of Contents

Table of Contents for proceedings reported in this issue appears at the back, together with a list of committee members and other members taking part.

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at (416) 965-2159.

Languages in Hansard

Hansard reports all debates in English or French as spoken by the participants. It does not translate remarks made in either language. Headings and tables of contents reflect language use.

Subscriptions

Subscription information may be obtained from: Sessional Subscription Service, Publications Ontario, Ministry of Government Services, 5th Floor, 880 Bay Street, Toronto, Ontario, M7A 1N8. Phone (416) 326-5310, 326-5311 or toll-free 1-800-668-9938.

Table des matières

La table des matières des séances rapportées dans ce numéro se trouve à l'arrière de ce fascicule, ainsi qu'une liste des membres du comité et des autres députés ayant participé.

Il existe un index cumulatif des numéros précédents. Les renseignements qu'il contient sont à votre disposition par téléphone auprès des employés de l'index du Journal des débats au (416) 965-2159.

Langues paraissant dans le Journal des débats

Le Journal des débats rapporte en anglais ou en français les débats, selon la langue utilisée par les participants. Les remarques faites en l'une ou l'autre langue ne sont pas traduites. La langue des en-têtes et de la table des matières reflète la langue utilisée.

Abonnements

Pour les abonnements, veuillez prendre contact avec le Service d'abonnement parlementaire, Publications Ontario, ministère des Services gouvernementaux, 5^e étage, 880, rue Bay, Toronto (Ontario) M7A 1N8. Par téléphone : (416) 326-5310, 326-5311 ou, sans frais : 1-800-668-9938.

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON GENERAL GOVERNMENT

Tuesday 26 February 1991

The committee met at 1012 in room 151.

RESIDENTIAL RENT REGULATION AMENDMENT ACT, 1990

Resuming consideration of Bill 4, An Act to amend the Residential Rent Regulation Act, 1986.

Section 8:

The Chair: I call the standing committee on general government to order. The standing committee is continuing with its clause-by-clause review of Bill 4, An Act to amend the Residential Rent Regulation Act, 1986. When we adjourned last week I believe Ms Poole was placing a motion before the committee. I am told that before we can hear from Ms Poole we should carry subsections 100e(3) and (4). All in favour? Carried. And subsection 100e(5). All in favour? Carried.

That brings us to Ms Poole's amendment. Ms Poole, could you please move your amendment to refresh everyone's memory on what we were discussing as we adjourned last week?

Ms Poole: I move that section 100e of the act, as set out in section 8 of the bill, be amended by adding the following subsection:

"(5a) In determining whether a rent increase is justified under clause 2(b), the minister shall not consider any portion of an increase in municipal taxes that results from non-compliance with a municipal or other property standards order."

The Chair: You have an opportunity to explain your amendment, Ms Poole.

Ms Poole: Just very briefly, Mr Chair, it is my understanding that the government has indicated a willingness to support this particular motion. It is to cover the instance where a landlord has not satisfied a work order, has not done the work required under the building code and the municipality has actually gone in and done the work in order to protect the integrity of the building or the safety and health of the tenants. In that instance, where a municipality actually does the work, it would put a charge on to the municipal taxes.

In the provision we were discussing earlier, 100e(1), whereby municipal taxes would be considered to be an extraordinary operating cost, under that particular motion a landlord could have had a work order on his building, have the municipality come in and do the work, put a charge on his taxes and then the landlord would have the right to apply for an extraordinary operating cost and have the tenants pay for the cost of lifting that work order. I think all parties were in agreement that this was not the original intent of the motion and this just clarifies that the landlord would not be able to pass that cost on to the tenants.

Ms Harrington: I just want to clarify that our party does realize this is a good idea. This kind of provision could be accepted, as it would prevent landlords abandoning their obligations to comply with property standards bylaws.

Mr Tilson: The Progressive Conservative Party certainly supports the amendment and I would assume it would be straightforward, that all parties would agree to it, because clearly if this amendment is not carried, it would be a wonderful way for the landlord to circumvent the act and take advantage of the tenant. Something that normally could not be carried through under the act you just allow to go under work orders and it would be carried through as an increase of taxes, so what a wonderful way to circumvent the act. So clearly to protect the tenant, our party wholeheartedly supports this amendment.

Ms Poole: Mr Chair, on behalf of the committee I would like to thank the East York Tenants' Association who brought this concern forward and provided us with insight into this possible loophole in the act. I think they are to be commended for their initiative.

The Chair: Very good. We acknowledge their work. Seeing no further discussion on the amendment, all in favour of Ms Poole's amendment? Ms Poole's amendment is carried.

Motion agreed to.

Mr Mahoney: Unanimously.

Mr Mammoliti: See what happens when you are nice?

Ms Poole: And for the record, George supported my amendment because I was nice to him and because the government told him to do it.

The Chair: Shall subsection 100e(5), clauses (6)(a) and (b), subsection (7) and clauses (8)(a) and (b) carry? Ms Poole?

Ms Poole: Yes, I would ask for a clarification from the ministry as to subsection (6), particularly clauses (a) and (b).

Ms Harrington: Subsection 100e(6) specifies criteria to be used for the purposes of calculating interest rate changes under clause (2)(c), namely that the total principal is limited to 75% of acquisition or construction costs and the amortization period must be at least 25 years. So that is a change.

Ms Poole: Right now it is my understanding that it would be 85% of acquisition cost and that the amortization period would not have to be 25 years, so that is a change.

Ms Harrington: Right. We selected these criteria. It is just following conventional lending practices.

Ms Poole: Does the ministry have any statistics or any indication that 25 years would be a normal rate for a residential rental complex? I know, certainly from a home owner's point of view, that 25 years is quite a common

amortization period, but I am not familiar with larger rental buildings, whether this is in the normal course of events or whether this is a dramatic change.

Ms Parrish: Twenty-five is what is required now, so that is not a change; the 75% is a change from 85%. I could not say with absolute certainty that it is X percentage, but I think it is the single most commonly used amortization period. Now, I should say that with larger residential rental properties they probably do not have mortgages at all—they have other kinds of debt instruments—and we do not make people have mortgages. All we do is say, for the purposes of this calculation, you assume this 75% loan devalued or amortized over 25 years. You can have whatever debt instrument you want; this is just a way of sort of limiting the amount you can pass through and it is chosen, as the parliamentary assistant said, because it is the most common kind of standard financing situation.

Ms Poole: And again, this only refers to the interest rate change.

Ms Parrish: Correct. Exactly the discussion we had the other day.

Ms Poole: So we are not going to talk about flipping.

Ms Parrish: Did we?

Ms Poole: No. I do not think we want to confuse this one any more.

Ms Parrish: This is just a limitation on the pass-through.

Ms Poole: Perhaps, Mr Chair, we could go back to what we were originally doing last week, which is that the ministry would just give a brief explanation for every clause, because with some of them I am not sure we are really aware of what the significance of the change is.

1020

The Chair: Okay, so we have had the explanation for subsection (6). Ms Harrington, could you give us the explanation for subsection (7) and clauses (8)(a) and (b)?

Ms Harrington: Certainly. Subsection 100e(7) clarifies that in determining financing costs no longer borne, the comparison is to be between a decrease in interest rates with increases in interest rate that occurred on or after 1 August 1985 and were recognized in a previous order.

For example, an order recognized increased financing costs that occurred between 1 August 1987 and 1 August 1988. There is an application for a 1 November 1990 rent increase and the current interest rate is lower, therefore there will be a decrease in the landlord's financing costs. The original period for consideration for the increase in interest rate had to be on or after 1 August 1985. This rule is the same as in the current legislation.

This subsection 100e(8) permits the ministry to look behind the transaction to determine the factual substance of the exchange. This can be done by disregarding the outward form of the transaction and the separate corporate entities and by examining the pattern of activities of the complex.

Ms Poole: On subsection 100e(8), the total rent increase that is justified on the application, this would be

referring to extraordinary operating costs or changes interest rates?

Ms Parrish: Yes.

Ms Poole: This basically is to ensure that there is arm's-length relationship between—

Ms Parrish: Not necessarily. The most likely situation not arm's-length transactions, but you are trying to avoid a situation where a building is sold around a group of related parties in order to increase the interest rate cost pass through or in order to provide some sort of manipulation in the transaction that would increase the amount of the rent but would not actually result in any change in actual ownership. It is most likely to occur between holding companies.

We also control this in a number of other ways. For example, we control it through interest rate trend-capping to sort of make sure that you do not get more than a certain amount. But in the past, I guess, there have been anecdotal problems with transfers among holding companies in order to increase rents. This just allows you to look behind that and see whether or not there is a bona fide transaction which is occurring in the sale of the property or whether the sale of the property is designed to avoid the application of the statute.

Mr Tilson: Looking at subsection 100e(8), I am looking specifically at the words "as a matter of fact the real substance of all transactions and activities." In other words, the minister shall determine as a matter of fact the real substance of all transactions and activities. Is there some regulation to determine what criteria the minister looks at to determine that?

Ms Parrish: No.

Mr Tilson: So that is just in his sole discretion. I am getting back to the question you asked Mrs Poole. Obviously this is designed to prevent the type of situation you described, but surely there must be a criterion that would have to be followed by the minister. I mean, who says he is right? Would there not be a regulation or a criteria setting forth how he makes that determination, or does he just guess? Surely not.

Ms Harrington: From the way I read it, in the past we could only go by what was on the paper. This is actually saying that he can have regard to the pattern of activities relating to that particular building and try to find out what the real intent of any transaction is. Now, I cannot speak any further, really, of how that is done.

Mr Tilson: I understand that. In other words, you are trying to avoid a certain situation from occurring as a result of this subsection, and there is a certain amount of ministerial discretion. But for the minister to have that discretion, presumably there is a set of criteria that I follow. Ms Harrington, it may be improper to ask you because you may not know; I guess really my question is to the staff. Is there a regulation or are you contemplating regulation whereby the minister, to arrive at that fact—there is a list of criteria presumably; surely he just does not guess. Do you understand what I am saying?

Ms Parrish: Yes, I understand. I guess I would start out by saying as follows, that there are some criteria here

at they have to look at the real substance of the transactions and the good faith of the participants, that they can regard the outward form of the transaction and that they must have regard to the patterns of activities. Those are the criteria. It would be unusual to have a regulation that would circumscribe discretion. I mean, what you are saying is that you have a situation in which, if you just look at the surface facts, you may have an unexceptional transaction. If you look behind that, you may have a problem and it could be dealt with in the same way as any other discretionary decision is dealt with. If there is insufficient evidence, then there is nothing to make a decision on. If the parties to the transaction are unhappy with the decision that is made in the first instance, they have the right to appeal to the hearings board and then the hearings board has the right to completely retest all of that evidence and all new evidence. And if they are still—

Mr Tilson: Where does it say that?

Ms Parrish: —unhappy, they have the right to go to the courts.

Mr Tilson: Mr Chairman, this is a decision that is made by the minister.

Ms Parrish: Yes, as every decision is made.

Mr Tilson: But my question is, obviously this is designed to deal with this expression that has been thrown at us, the word “flip.” Correct?

The Chair: There is that word again.

Ms Parrish: I guess, with respect, I do not really think it does deal with flipping. The more common factual situation will be transfers between non-arm's-length holders of property. That is the most common situation, where you could have a transfer between non-arm's-length parties of the same property.

Mr Tilson: Well, you get into the favourite type of situation where the directors and the shareholders are all the same for two or three different companies.

Ms Parrish: Yes, sir.

Mr Tilson: And they transfer it back. That is called a flip, at least the way I have always looked at it, the bad word, and I realize the Ministry of Housing is having a very difficult time defining the word “flip.”

Ms Parrish: It is a flip if there has been an appreciation in the course of that activity. If there has been no appreciation, it is just a transfer.

Mr Tilson: I could challenge you on that because you could change the mortgage transaction. It could have the same quantum but the terms of a mortgage could vary substantially, just to create other funny things.

Ms Parrish: Yes.

Mr Tilson: And hence, I get back to the question. When you say “the real substance of all transactions and activities,” I do not know what that means. This section does not tell me what it means. So I would assume that you would be creating some sort of regulation to define how the minister determines the real substance of all transactions and activities. In other words, there must be a guide, there must be a list of things the minister must look at.

In other words, for example, what the space between the transactions is, defining what a non-arm's-length transaction is, those sorts of things. Would the minister not have to have a guide to determine that? Otherwise he could can specific applications unilaterally without any grounds whatsoever.

Ms Parrish: Except that all decisions go through a process. This is like the exercise of any other kind of discretion.

Mr Tilson: I am trying to find out what the process is.

Ms Parrish: The process is, you would make an application and then the people who would hear the case, which of course is not the minister personally but the administrative rent review administrators. It would then be appealable as all other decisions are. That is how administrative discretion is exercised. If there is a decision, and if people do not like it, they go through a process of appealing it; and there is nothing different about this decision from any other decision that could be made under this section.

1030

Mr Tilson: I am not challenging the fact that a minister of the crown should have some discretion. What I am challenging is that a minister of the crown, in exercising his or her discretion—and this applies to any legislation—must follow a set of guidelines, must follow a set of criteria otherwise he could say, “I’m going to oppose this increase because I do not like the name of the company, the companies.” Why could he not do that with this section? It gives him the right to.

Ms Parrish: I do not think there is any criterion there that would reflect on the name of the company. The name of the company may probably have nothing to do with good faith or real substance or outward form or pattern of activities.

Mr Tilson: It does not say that. It says in his discretion, “the minister shall determine.” I read that as his sole discretion, and there are no criteria to determine how he determines the substance of these transactions and activities. I leave that with you. I have trouble with giving a minister of the crown that much discretion without some sorts of guidelines.

Ms Poole: To follow up on Mr Tilson's point, the ministry has filed some draft regulations with committee members. I assume so because I seem to have received it in one of the piles we got from the clerk and I noticed there is not any provision at all under regulation to deal with subsection (8). I wondered if it was the ministry's intention to actually have regulations or have some guidelines that the minister could utilize.

Ms Parrish: No. And the reason is that you are dealing with a matter of discretion. If you knew what all the problems were going to be, you would not need the discretion. You could just have a rule that would say, for example, as we did before, if the mortgage is more than 75% or if it is amortized by less than a certain period of time then you cannot have it or you cannot count it or whatever. If you knew what every potential problem was, you would not need any discretion, you could just have a rule.

Ms Poole: The problem I have with this is that in both the Residential Rent Regulation Act and in Bill 4 it always refers to the minister, while in practicality it is not the minister, it is the minister's staff via rent review who make these kinds of decisions. I would not have too much difficulty giving the minister this type of discretion. I would still prefer some guidelines because obviously he needs—

Interjection.

Ms Poole: No. I said I do not have a great deal of difficulty. I said I would prefer some guidelines for the minister. But I have a great deal of difficulty leaving this to the discretion of rent review administrators who may have had no expertise—

Mr Mahoney: A bad day.

Ms Poole: —or may have had a bad day, or may not even understand what the motivation is behind this, but certainly do not have the kind of information available to make these discretionary decisions.

I would strongly recommend that you do have guidelines or regulations that would assist the rent review administrators in making these kinds of fairly broad decisions without any backup.

Ms Harrington: I understand what you are saying. I would like to ask our staff—this might get to the heart of it—what difference these clauses would make to what has been done in the past under the RRRR? Was there any discretion or what is the real intent behind doing this? Why do we want the change?

Mr Mahoney: A point of order, Mr Chairman: we are debating Bill 4, not the RRRR, so I do not know why you would use it to justify a decision in Bill 4.

Ms Harrington: I am not doing that.

Mr Mahoney: Your government's bill should stand on its own.

Mr Mammoliti: It is not a point of order.

Mr Mahoney: It may not be a point of order, but I got it in.

The Chair: We are discussing concerns that have been raised by Ms Poole and Mr Tilson, and staff and the parliamentary assistant are trying to accommodate the questions of the members and we will continue.

Ms Harrington: So basically I want to say why we are changing the RRRR and why this clause is in there. I would ask our staff to comment, if you could, about the intent of this and how much, as Ms Poole has asked, real leeway or changes are given here and why we need them.

Ms Parrish: In the past there was no discretion under the RRRR to deal with anything but the face of the transaction. That meant there were transactions in which everybody knew there had been, essentially, a non-arm's-length manipulation of the financing and mortgaging package in order to increase the rents, but that no one could do anything about it because there was no discretion to disregard the outward form of the transaction. That is why this is here; it is to deal with those kinds of circumstances.

One thing I would say is that if it would increase the comfort level of the members, when we get to the regulation-

making authority we can add a regulation-making authority under this part. I have to be honest with you and say the regulation-making authorities give the government the authority to pass regulations. They do not make them pass regulations, but they do give them the ability to circumscribe discretion if that appears to be necessary and if you get enough cases. The reality is that you may not have enough of these cases to justify a regulation, in the sense that you would end up with a regulation that deals with one case, particularly given the relatively short period of time that the bill is planned to be in place. But if that would be of help, I do not think it would be problematic to draft a regulation-making authority that could provide the guidelines in this area to the rent review administrators.

Mr Tilson: One of the committee members in jest—maybe it was not in jest—made a remark that the staff could have a bad day and just decide for whatever reason with respect to exercising discretion. I know that sounds silly but when you read the section that is possible. They may just not like the people who are involved and that is a reason. They do not have to give a reason.

I guess I am still looking for a specific example. There must have been something that made the government implement or put forward this amendment. There must be some specific examples. And if there are specific examples, they should be very easy, as you have indicated, to prepare regulations. I guess what I am looking for is, one, can you give us some specific examples as to why this subsection of the bill is being put forward? And second, if this matter were to be stood down, if the subsection were to be stood down, if the preparation of regulations are fairly simple and they must be because I am sure you have thought that out—could we see the regulations perhaps even today?

Ms Harrington: I just want to remark on your scenario of staff having a bad day; I mean, this could apply to every single section of the act and every single section of government. What I would like to caution—

Mr Tilson: A point of order: that is not quite so. While there are ministerial discretions, normally there is a set of criteria, as I understand it, in most pieces of legislation.

Ms Harrington: Right.

Mr Tilson: This is unusual, what is being done here.

1040

Ms Harrington: We are saying that we expect staff to do the very best job they possibly can in all areas of regulation. I just want to point out that in this particular portion, this discretion, which is in effect the minister's discretion, any staff making decisions are personally responsible to the minister. It is his responsibility. So I would say to you that the staff would be extremely careful in any decision they would recommend to the minister. I think what you are saying is a very generalized thing, that of course decisions are hard to make and that we rely on staff. But I think you would understand that as our staff has said this is a small number of cases we are dealing with and some discretion—obviously that is why we put it in there. We feel this is the only way a minister's discretion could actually deal with getting behind what is written on paper to the real effect of transactions.

Mr Tilson: Ms Harrington, everybody has a bad deal. The minister could say: "I do not like this deal. Forget it."

Ms Harrington: Yes, and he is responsible to the electorate of this province and to the government.

Mr Drainville: Mr Chair, on a point of order: the questions have been asked. The parliamentary assistant is responding to them. The ministry officials are responding to them. Every minute or so there is an interjection from Mr Tilson. I would request, Mr Chair, that perhaps you might give a little bit of direction. If answers are given and the member does not like them, that is fine. But at least answers are being given and it seems to me that we need some direction on this.

Mr Mahoney: Are you sure this is a point of order?

The Chair: This is not really a point of order.

Mr Tilson: I think he is out of order, Mr Chairman.

The Chair: That is not really a point of order. I am listening carefully to the questions and to the answers, and it appears that the answers are in fact, in the member's view, causing other questions to be raised. I am keeping an eye on the clock and we have already passed a couple of questions this morning, which is speedy work for this committee. We are close to passing subsection (7), and I am going to let the member continue with his questions.

Mr Tilson: With due respect, Ms Harrington, I simply do not accept that you appear to be saying that the minister can exercise this type of discretion without a set of criteria, a set of guidelines which would be in a regulation. The staff have indicated that it would be possible to prepare some regulations. My question therefore is to the staff. How long would it take to prepare those types of regulations setting forth criteria as a guide to the minister which would assist us in determining whether or not the minister has sufficient criteria to assist him or her in making those decisions?

Ms Parrish: I think it would take quite a long time, and the reason is that what you are really trying to do is to circumscribe the exercise of discretion in unusual cases. The point I guess we are trying to make here is that, with respect, there is nothing unusual about this kind of discretion. In the past this discretion has existed and continues to exist. All we are doing is giving the rent review administrators the same discretion. Perhaps it would be helpful if I read the discretion that the hearings board to which these decisions are appealed has under the current RRRA. It says:

"Every decision of the board shall be upon the real merits and justice of the case. In determining the real merits and justice of the case, the board shall ascertain the real substance of all transactions and activities relating to the residential complex and the good faith of the participants, and in doing so, (a) may disregard the outward form of the transaction or the separate corporate existence of the participants; and (b) may have regard to the pattern of activities related to the residential complex." It is almost exactly the same wording. There are no regulations under this section and those powers are being exercised now.

Mr Tilson: Those powers can be appealed of course.

Ms Parrish: No, this is the appeal board. The powers that are in section 8 can be appealed to the hearings board and turned to the courts. The hearings board power, under section 49 of the current statute, can only be appealed to the courts. So in fact in section 8 there is more procedural protection, in the sense that the decision could be made by someone, whether that person is for whatever reason making a decision—

Mr Tilson: A bad day.

Ms Parrish: Or because he or she thinks that is the right decision. It is then appealed to the hearings board, which can then reopen the entire case, readduce all the evidence and make its decision on the basis of the language that I have just spoken to you about. If they are still not satisfied, they can go to the courts. So there is significant procedural protection. All we are doing is moving this discretion, which has existed in the RRRA for a long time, essentially down one level. In many ways that is helpful, because otherwise these cases where they exist are pushed into the hearings board and there is a whole sort of process and then eventually you go to the hearings board anyway. All this is doing is moving it down a little bit further in the process.

Mr Tilson: Mr Chairman, if a decision is made that an applicant is not satisfied with the way the minister has exercised his or her discretion, where can that applicant go? To the courts?

Ms Parrish: To the hearings board, and it exercises the discretion I just read out, that is, their discretion. What has happened now is that the rent review administrators have no discretion. They may know there is a problem, but they cannot do anything about it. They then kick it off to the hearings board after it has gone through a great long process at the initial level. All we are saying is, perhaps it would be more helpful to deal without the initial level. If people are still unhappy, they go to the hearings board. The hearings board exercises exactly the same discretion, has the ability to open up all the issues and readduce the evidence. If at the end of the hearings board decision, after they have had two decisions they are still not happy, then they can go to the courts.

Mr Tilson: I appreciate your leniency, Mr Chairman, in allowing me to continue, and I will simply make the statement that I am generally adverse to governments having that type of discretion without some sort of guideline or set of criteria to assist the minister and his or her staff on making that type of decision.

Ms Poole: I would like to go on from Mr Tilson's comments. Colleen, I am glad you clarified in your last statement the difference between rent review administrators and Rent Review Hearings Board members. There is a great deal of difference. Under the RRRA, the rent review administrators have been given absolutely no discretion. It partially accounts for the complexity of the act. They tried to take out every possible loophole, every tiny bit of discretion that an individual rent review administrator might have and consequently we ended up with a very complex piece of legislation.

Appeal board members do have that type of discretion, but that is not what we are talking about here. I would submit to you there is a very real difference between giving this type of discretion to rent review administrators, who are not trained in using discretionary powers, who have not—in fact, when they are hired they are not hired for their judgement in being able to make discretionary decisions. They are hired on, can they follow the letter of the law? I am uncomfortable with there being no guidelines or regulations for these people to follow.

I have no problem with the hearings appeal board members, because they are not only trained for it, they are of the highest calibre and they make these judgemental decisions, which is why the appeals board usually changes the decisions of the rent review administrators, because they have discretion. I think it comes down to the point that if the government feels that the numbers warrant having this provision in the act to begin with, then surely numbers warrant their having a regulation.

I do not buy the argument that there are not too many cases, therefore why bother dealing with it. I can understand that it would be very problematic for you to come up with a regulation today. I know it not only takes weeks; it sometimes takes months to get these regulations out. I would be satisfied if the ministry could give us just some guidelines over the next day or two. They could give us a list of guidelines that would apply for the use of rent review administrators, and then go ahead and in a timely fashion formulate a regulation because of it. But I am most uncomfortable with the whole idea of giving discretionary power to a rent review administrator who has never had this power before and has not had the training to deal with it.

1050

Ms Harrington: The power is really given to the minister, so he is responsible.

Ms Poole: The minister is ultimately responsible for everything in the act, but the practicality is that the minister does not look at every single application and the minister does not look at every single instance. The minister has delegated his powers in almost every instance, first to the rent review administrator and then later to the appeals board. I can appreciate your wanting to put this in so that you cut out the number of appeals to the appeals board. I think that is a great thing. All I am saying is that I do not think it is untoward to ask for guidelines for those rent review administrators so that we are not creating more of a mess than need happen.

Ms Harrington: What I would suggest is that we pass this section as it is. Our staff have said they would like to look at the regulations with regard to this section and that will be when regulations for the rest of the act are being formed.

Mr Brown: Most of my questions have really been asked, but could you give me an example of what we are really talking about? What would trigger this clause? We talk about real substance and good faith. Just give me an example, Colleen or somebody, of exactly what kind of a case we are looking at.

Ms Parrish: The most common kinds of cases are probably transfers within related corporations, for example, where you sell a rental property at no cost or at very low cost or you rearrange the mortgage financing package. For example, you sell a property to one corporation. You have a third corporation hold the mortgage at 0.0%. You then refinance the mortgage in the regular market in order to increase the amount of the interest rate cost passed through. We try to catch that in other ways, for example with the trend analysis, but at any rate you would still get the benefit of whatever that difference was. And none of these transactions are real transactions, that is, in a normal marketplace situation I would not be prepared to buy your property and give you a mortgage at zero or whatever, and what you are really looking for are those rare cases, and they are relatively rare. They will be more rare.

There was more incentive, frankly, to do this when you had economic loss and financial loss, because when you had financial loss you had an incentive to sell things and generate losses, so you are probably going to have these things happening much less. You can appreciate I have not been in the ministry that long myself, but my understanding from my colleagues is that there have been transactions of this nature in which there has been a manipulation between various holding companies in order to increase the amount of money that can be passed through in the form of rents and nothing has happened. There has not been any improvement in the property. There has not been any real new owner. I mean, nothing has happened. All that has happened is a series of paper transactions designed to increase the financing costs or decrease the loss associated with the building or whatever. And it is less likely to happen, frankly, in a situation where you do not have economic loss and financial loss, in any event. About the only thing that is left, essentially, would be interest rate cost passed through, which we do deal with in various ways as well.

Mr Brown: So let me get this straight. It was a rare occurrence in the past—

Ms Parrish: It did occur, though.

Mr Brown: Granted. It was a rare occurrence in the past. Generally speaking, most people, if they looked at that application and said, "Ah ha, there is something wrong with this"—

Ms Parrish: But the administrators could not do anything.

Mr Brown: Yes, and it would be more rare in the future because of Bill 4.

Ms Parrish: That is correct, and usually it would end up at the hearings board because the hearings board has the discretion to look behind the transaction.

Mr Brown: And you are just saying we are going to move this down one step from the hearings board to the rent review administrator level.

Ms Parrish: Yes, sir.

Mr Brown: In theory then that should cause less work at the appeals board.

Ms Parrish: You are less likely to have a case sent up to the appeals board for the sole reason of catching this

problem. It may still go to appeal because people may still be arguing about whether or not they are one of these bad cases, but in theory you could catch a case much earlier in the system and in theory the whole application could simply be withdrawn because it was clear that the evidence was fairly negative. It is fairly difficult to catch these cases so people often try them on for size, and if they think they are not going to get caught, I guess they will just continue. Essentially, this gives the opportunity to catch these things at an earlier phase and if people think they are going to be caught they frequently withdraw. However, if there is a bona fide dispute, that is, if it is questionable, or whatever, that they may have some other good reason they are doing this, then they will go on to the hearings board and they will get another full hearing at that stage.

Mr Brown: It strikes me that an administrator would be very wary about making the kind of determination that would be required. He or she would be most likely, again, to see it settled at the appeals board rather than to make kind of an arbitrary decision if they had no guidelines. I guess I am wrestling with this like the rest of the members of the committee. Is this really going to solve a problem? Is it going to end up at the hearings board anyway? I would suggest to you that I think it will end up at the appeals board anyway, in the vast majority of cases, which you are telling me are very rare to begin with and are going to become more rare. I am uncomfortable with the power this gives to the minister and to people below, and if I am uncomfortable I would suggest to you that the administrators will be uncomfortable. They will not want to make these kinds of determinations. We are going to be right back where we were anyway. I am just having some difficulty with how this really works. Thank you.

Mr Turnbull: Colleen, I would ask you for an example. Let us say you have a building owned by three corporations of three people with or without equal shares in the building and two of the partners decide that they want out and that they want to sell the building. The third partner buys the building with some financing on it. Are you suggesting that with this kind of regulation you would seek to disallow that as a bona fide transaction?

Ms Parrish: It seems to me that in that situation there is no good-faith problem. They are actually selling. The kinds of transactions that cause one concern are situations in which these shares are mysteriously bought by a third corporation that happens to be owned by these other two people. In other words, all you have, I guess, is a transfer and no change of real ownership and that may be for good reasons. It may be for tax reasons or it may be for protection of personal liability or whatever, because maybe one of these partners has gone into some sort of business and wishes to, etc. They may have good reasons for doing all this or they may have reasons that are designed simply to increase the value of the property and to generate losses or interest rate changes that would be passed on to the tenants in the form of increased rents. The reason it is difficult to have criteria for this is that if you have criteria and people are in the business of avoiding the statute, they will simply avoid the criteria.

Mr Turnbull: If you are talking about where there is 100% purchase by essentially a group of owners who are 100% the same as the existing ownership, it would seem reasonable that there is an element of avoidance of the act going on there and perhaps you need some sort of regulation to catch that. However, I am very concerned that you can have some change in the ownership which may be a third corporation but may be substantially owned by some of the partners in that corporation. And if we are having difficulty around this table understanding what is meant by the thrust of this clause, it seems to me very apparent that anybody who is in the rent review system trying to interpret this may have some difficulty. You did not really answer my colleague's question. Give us some concrete examples of this. You have said they are very few and far between.

1100

Ms Parrish: I gave you this case that was designed deliberately to generate financial loss by increasing the value of the property. Essentially, the property was transferred from the one corporation to the holding corporation at an increased price. You then have a financial loss generated in this corporation because it has bought the property and generated the financial loss. As you know, under the old system financial loss was passed through to the tenants.

Mr Turnbull: Was the recipient corporation 100% the same ownership structure as the original parent corporation?

Ms Parrish: They may be and they may not be. Common cases are cases where you have dominant owners and what you may have is some mixing. For example, the one corporation is wholly owned and then you have another corporation which is 60% owned by one person and 20% owned by someone else and so on; so you do have some situations where there is a somewhat different mix in the partnership, but it is the same person. I guess I draw a distinction between the one issue that is being raised, which is concern about the exercise of discretion, and the second issue, which is whether these cases actually occur. It is clear that they do occur and it is also clear that they are not widespread.

Mr Turnbull: Do you have any indication as to how many transactions we are talking about since the introduction of the RRRA?

Ms Parrish: No, I do not.

Mr Turnbull: No idea at all?

Ms Parrish: The problem is that you do not know to what extent the fact that this power exists deters people from the transaction. Having spent my misbegotten youth in the Ministry of Financial Institutions, we have a lot of powers in the ministry that are far more widespread than these powers, designed to deal with the basis of the transaction. A lot of those powers came into being after the famous Greymac/Cadillac Fairview/Crown Trust transactions which were, by and large, transactions which passed the face of the statutes involved, but in fact, underlying those transactions was a series of other kinds of non-arm's-length transactions.

So, how many would have happened had you not had these powers in the statute I do not know, because I do not

know to what extent people would have been deterred by the fact that sooner or later somebody will look back at the transaction. I can also tell you that it is very likely that some transactions have occurred and nobody has caught them. One of the reasons is that you have only one place to test. It seems to me that if you have two places to test, you have a better chance of catching these transactions.

But as I said, somewhere in the system this does get dealt with. The concern is that if you do not want the discretion exercised at the ministerial level or the initial decision-making level, then all that will happen is that these cases will all get pushed up another level where the same discretion will be exercised.

Mr Turnbull: It seems to me you have raised an interesting point. You started talking about the dominant ownership and I would like to have a definition from you as to what percentage you would consider to be dominant ownership.

Ms Parrish: In legislation that deals with ownership laws there is a whole series of positions taken. Most statutes provide for majority ownership, which is 51%. There are a number of variations. For example, if you have less than 51% but you have the ability to control the majority of directors' appointments, that could be another index of control, so if you have less than 51% of the voting shares but control more than 50% of the directors, you may be a dominant owner. In the area of other transactions, financial institutions, for example, there is another test called significant ownership, which is an ownership position which is significantly large to influence the corporation's behaviour and that is usually at 10%. But normally, people look at either the control of 51% of the voting shares or a combination of the control of the voting shares and a control of the number of directors' seats, and that would depend, of course, on the combination of voting criteria they have in their shares, for example, that some voting shares may be more equal than others and they elect more directors, and so on.

Mr Turnbull: In your example of the Cadillac Fairview flip, the interesting thing is that situation is probably the most notable case of what is called a flip. If you have somebody who has had ownership of property for a significant length of time—let's arbitrarily use a number of five years as an example—and it is a group of owners and actually there is a significant number of people like this, where they have a group of owners who own a building and one of them needs to get out, unless you interpret this in such a way that it is clear, nobody will be able to sell a partnership interest in a building. Now, if they have owned a building for five years, presumably they have expectation of profit. If it is the position of this government that they are now moving in the direction legislatively that profits are totally disallowed, let them say so, but if you do not allow the disposition of a partnership where one partner is able to buy out the other, that may cause significant disruptions in the market. Is that the thrust of the legislation?

Ms Parrish: These provisions only come into effect in a case where you have an application for a rent increase, so in the normal course of events, people are not buying and selling their properties coinciding with a rent increase.

All this is trying to do is to say that if you have a rent increase which is based entirely on non-good-faith transactions, you may be disallowing part of that rent increase or you may not.

Mr Turnbull: But this goes back to this criterion of good faith. If somebody is legitimately wanting to sell his partnership and he has an expectation of profit, there can be no profit unless this is viewed objectively as an arm's length transaction. He happens to be selling to a partner he has had in the building. The partner nevertheless is paying a higher price for the building. I suspect that probably goes around back to the argument that one needs to define what you mean by a flip because, as my colleague has said, it goes back to the same circular argument of your seeking to disallow any manipulation of this act. That is the intent of this clause, is it not?

Ms Parrish: The intent of the clause is to look at the transaction; it is not to prevent any manipulation. It is only to look at the transaction, if there is a transaction, and to look at whether or not there has been essentially a manipulation of the outward ownership in order to create increase in rent.

Mr Turnbull: I am very concerned about giving the ministry staff discretion over this, in view of the very fuzzy answers that—

Mr Mammoliti: On a point of order, Mr Chairman: I think we have been pretty patient here in having to hear the same old questions over and over and I am getting that gut feeling again that I got last week, that supernatural psychic feeling. Something tells me they are trying to stall here and I do not know what to do about it. I would ask that the Chair recognize the fact that they are repetitive and to screen that, please.

1110

The Vice-Chair: Thank you, Mr Mammoliti. I would just remind the members that we are discussing subsection 100e(8), and if they can keep their remarks to that section and try their best to avoid any repetition.

Mr Turnbull: I think we are just going back to the same point. The discretion that would be allowed does not seem to reflect the ability of somebody to sell an interest in a building to a partner. Perhaps Ms Harrington could respond to that.

Ms Harrington: I think the opposition has made its point quite clear about their problem with the discretion involved and I think we have made our position quite clear as well, that in cases like this we feel that to get behind the paperwork and look at the intent, a certain amount of discretion is a good thing, and that why this has been put forward. Beyond that, I think that is the bottom line.

Mr Mahoney: The issue we are all talking about has to do with the sale of all or a part of the shares of the company that owns the building or the direct sale of the building, and that the minister should have discretion on the application for rent increase that would cover the costs that have been incurred as a result of that sale. Is that basically how you understand it?

Ms Harrington: That we should get at the costs incurred in the sale? Is that what you are asking me?

Mr Mahoney: As I understand it, there are only two costs that will be looked at for approval of a rent increase. One is extraordinary operating costs. I am assuming that is defined in the same manner as it has been defined in the past in the RRRRA. The second is the increase in the interest rates as a result of an acquisition—we went through all of this last week—and the maturing and that increment on the interest rates.

We are talking about it in terms of a positive action such as the sale of a property. I was talking to an individual yesterday who has told me that to survive the recession he had to sell two income properties, and as a result of Bill 4, he looked at decreased valuation of his property in the neighbourhood of 30%. Fortunately for them, the person is strong enough to withstand that economic loss.

My question has to do with this section in regard to an application for rent increase, perhaps by a trustee who has seized the property either through whatever mechanism, whether it is bankruptcy, filing for bankruptcy, power of sale or whatever. You have a number of costs that are involved in such an action, costs the trustee would incur, interest costs, that perhaps there could be creditors, there could be outstanding bills, outstanding orders, outstanding contracts all related to this building and all of these costs, you sort of wrap up the building. And we have sort of buried the landlord at this stage. The landlord is out of the picture, the building is now in the hand of a trustee. Does this section allow the minister to approve rent increases based on costs incurred through some form of insolvency?

Ms Harrington: That is an interesting question. I would like to ask staff if they could answer.

Mr Mahoney: And it is a new question just for the member for Yorkview.

Mr Mammoliti: I give you credit for that, Steve. You usually do not do that.

Mr Mahoney: The member usually does not listen.

Ms Parrish: There is nothing like having a warm and friendly environment for one's responses.

Mr Mahoney: It is a kinder, gentler place.

Ms Parrish: The question you ask is interesting, but subsection (8) does not help you one way or another. It is sort of like a chip in the porridge. The situation you are talking about is where the trustee incurs costs in seizing the property and therefore wishes to get those costs somehow. Right now you can only get it from the estate, which is from the building, and you cannot pass that on in the form of increased rents, so in that sense, no, they are not helped.

In my view, subsection (8) really would not affect that situation at all because, although the trustee has taken them in and perhaps the trustee remortgages the property because he has to—the old mortgage has died or whatever—they remortgage and apply for a rent increase related to the interest rate change. But it seems to me that it is a real transaction. It has really been seized in bankruptcy. There is no bad faith there. It is not really affected at all. The

problem with their trustee is that they may be incurring expenses they cannot ultimately recover because the capital value of the property may be insufficient to cover the trustee in bankruptcy costs. But I do not think that subsection (8) has anything to do with it one way or another, because it is clear that the trustee is acting in good faith. There is no reason to think they are not, and since they would be acting at arm's length, I cannot imagine there would even be a *prima facie* case to throw up. They may not be able to recover their costs, but it is not because of subsection (8), it is because of other provisions in the act.

Mr Mahoney: Clearly we are not going to be worrying about selling of properties, we are going to be worrying about foreclosures of properties as a result of Bill 4. I wonder if there should be some clause that would outline, for tenants' clarification, so that they are not facing—you can imagine what a trustee would get like with the tenants. There could be harassment, there could be some nasty blood as this trustee comes in and finds that on behalf of the creditors he is unable to succeed at doing his job. There might be tenants who are paying economic rent that is well below market rent and there could be attempts by a trustee to sort of juice those rents up, so to speak.

I just wonder if there should not be some addressing of what will occur and how the minister will deal with rent increase applications that are made as a result of an insolvency. It may not be able to be dealt with here this morning. I might have to ask that it be referred for some kind of report back to this committee to allow for staff to have an opportunity to put in writing what the position of the government would be in the case of an insolvency. I would be happy to stand down my question if staff feel they need some time to respond to the committee in writing, assuming it is a point of some concern to the committee.

Ms Harrington: I understand your concern. It is actually not directly involved with this.

Mr Mahoney: I am not sure about that.

Ms Harrington: But what I would like to say is that staff would be happy to deal with that question and get back to you on it.

Mr Mahoney: Mr Chair, I am not sure about the comment that it is not directly involved. I understand that no ministry can function without some form of discretionary powers on the part of the elected representatives and their appointed agents. I frankly do not share that concern. I am more interested in some of the details particularly surrounding this, and if there is such discretion under subsection (8) of the bill, you could see an application coming in for these extraordinary costs. There might be an argument to say that some of the costs I am referring to could be considered extraordinary operating costs, perhaps not under the pure definition in the RRRRA, but perhaps under some lawyer's definition that could be argued in a court at some point. I do not think you have addressed that situation in the bill, so if you will undertake to have staff prepare something back to us in response to that I would be most appreciative.

Ms Harrington: Yes, we will.

Mr Mahoney: Thank you.

1120

Ms Poole: Mr Chair, maybe it would be helpful for all members of the committee if we clarified exactly what subsection 100e(8) refers to. It says, "In determining the total rent increase that is justified on the application." Now, am I correct in stating that the only two instances where there would be a rent increase would be for extraordinary operating or an increase in interest rate due to changes?

Ms Parrish: That is correct. That is all that is permitted under Bill 4.

Ms Poole: Okay. And subsection (8) really would give the minister's representative the discretion to look at the transaction and determine whether there was something inappropriate about it or whether it was not at arm's length and was trying to circumvent the intent of the act. But the minister primarily would be doing this with an increase in interest rate and dealing with that.

Ms Parrish: Yes. It is hard to think of a situation in which you would have a problem with tax increases or with heating, for instance, unless you had a situation where the heating company owned the building, for instance. That is about the only thing I can think of. The rest are all hydro and so on.

Mr Tilson: The municipality could own the building.

Ms Parrish: So the only situation you would be sort of looking at would be fairly unusual, so it is most likely to be interest rate changes where you could have any kind of factual circumstance arise, in my view. People may have unlimited creativity, but it seems to me most likely interest rate changes.

Ms Poole: I think you made the point earlier, that financial loss was normally the provision under which a landlord who wanted to have a non-arm's-length transaction would benefit the most, which may not have seeped into our minds at the time, and you have stated very clearly that under Bill 4 there is no financial loss provision. Most of the incentive for a landlord to do this has already been removed from the act, so what you are trying to do is address those few remaining cases where the landlord would try to take advantage of an arm's-length company to get the increase rate changes. And so it is really just as a companion to the resolution we talked about, or the motion we talked about last week which dealt with this.

Ms Parrish: Yes.

Ms Poole: You are not really trying to revolutionize the world, you are just trying to take care of those few cases.

Ms Parrish: Yes.

Ms Poole: My major concern, the concern of our caucus, I think, has been with the discretion. Since I believe we have your understanding that you will look at the regulatory powers as far as giving guidelines to the rent review administrators in the performance of this particular clause, then that would certainly satisfy me that you have taken that concern into consideration and that we are not really dealing with anything beyond interest rate changes and the possible abuse of that section.

Ms Harrington: That is correct.

Ms Poole: Does that help anybody?

Ms Harrington: That is very helpful as far as I am concerned.

Ms Poole: I am just clarifying what this does or does not do.

Mr Tilson: A couple of questions to the staff, Mr Chair. Do I understand, then, that this subsection deals with whether or not it is an arm's-length transaction?

Ms Parrish: It does not deal only with that issue. That may be one of the issues, one of the pieces of evidence you would use in testing the good faith or real substance of the transaction.

Mr Tilson: That is my point. I would love to see some pieces of suggested evidence as to what is used—in other words, it is or is not an arm's-length transaction—that would be a criterion for the minister to look at.

Ms Parrish: It could be a criterion.

Mr Tilson: Yes.

Ms Parrish: But it would not necessarily be the litmus test. For example, you would not necessarily say, "It is not arm's-length and therefore it is bad faith." Because in the example Mr Turnbull gave earlier, you may have, in fact, a non-arm's-length, good-faith transaction. So that would not be the only criterion and that is the problem with the criteria. You could pass a regulation that said that in considering whether or not something is of real substance and good faith, you shall consider the following criterion: Is it at arm's-length?

Mr Tilson: Yes.

Ms Parrish: Is it this or that? Is it higher than the market interest rate?

Mr Tilson: Yes.

Ms Parrish: Is it lower than the market interest rate? Is it higher than market value? Is it lower than market value? And so on. And those would be the sort of little tests you would use. But as I said, you probably would always have this residual discretion because you could have a transaction that was above market, non-arm's-length, etc but still be good faith. And you would have other evidence that would show it was good faith, that you know there was no other available financing; that the partners were, you know, whatever. So you could have a regulation-making authority.

I had a brief discussion with Legislative Council. We could put it in in the regulation-making authority section. I am just trying to be completely honest with you in saying that although you may have criteria that will say to staff, "Look at whether or not it is arm's-length, look at the market value of the transaction, look at this, that and the other thing," you would still have residual discretion.

Mr Tilson: I understand that.

Ms Parrish: I guess I am trying to keep completely honest about that so that you will not—

Mr Tilson: No, no, I understand that a list of criteria would not be exhaustive, but this legislation does not have any list. Mr Mahoney gave an example; there are other

examples that could be used. You could have a small family business, a landlord, a ma and pa operation who are not able to withstand the difficulties that are being caused by Bill 4 because of the capital expenditure issue. There may be a few shareholders in that corporation and they may decide to transfer that corporation to a larger corporation which includes ma and pa but includes other shareholders. The purpose of doing that is so that the larger corporation has more financial resources, may be in a financial position to withstand the difficulties that have been created by Bill 4, otherwise they are going to go bankrupt. Then they are going to be in Mr Mahoney's situation of the bankrupt. That type of situation, it would seem to me—

Mr Mammoliti: You going bankrupt, Steve?

Mr Mahoney: Do you want to rephrase that?

Mr Tilson: Yes, I will rephrase it.

Mr Mahoney: I mean, I am broke.

Mr Tilson: I certainly was not suggesting that but that is an example, Mr Chairman, that subsection (8) would fall into, and the minister at his or her discretion could simply say, "Sorry, but we are not going to allow that because there is no reason." That is why, in that transaction between the small company and the large company, there could be an interest change in the mortgage. Hence it would fall under Bill 4 and may or may not be a good thing. The difficulty is that we do not know whether it is a good thing because there are no criteria. I guess that is the concern I have and about which I am most reluctant. Mr Chair, unless I hear good reasons from other members of the committee, our party would be making an amendment that this subsection be struck out unless there is a list, until we see a list of criteria.

I do not think our party is prepared to give the minister that unilateral power without some sort of guideline, and I say that for the minister's benefit. What is the minister going to base his or her opinion on? We do not know. In other words, I gather that one of the sections is to avoid bureaucracy. But the minister could—in other words, if you do not like the minister's decision, you can move it on according to your answer. More bureaucracy, it is yet another step. It is more cost to everyone; more cost to the whole process; more cost to the taxpayer; more cost to the landlord. It creates more bureaucracy and the next group will not know either. I guess if the minister gave an opinion with no response surely there would be an appeal, probably there would be an appeal. You are trying to avoid all that. And yet inadvertently, with all due respect, you have created that. I would like something a little stronger from the staff as to whether or not it is possible that this subsection could be stood down.

It may well be that I could concur with this if I saw a non-exhaustive list of criteria. I understand that you could have a list of criteria and you could say, "But there could be others," and I could understand that, but at the very least a minimum set of criteria. You must have something in your mind as to what those criteria are. Maybe I could ask you that. What is the minimum standard that you as a staff person would have for a set of criteria?

Ms Parrish: It would be the kinds of criteria I mentioned to you before. You would look at whether or not there was an arm's-length transaction, and if so, what the reason was for a non-arm's-length transaction. There are lots of good reasons for non-arm's-length transactions. They are not always bad. You would look at whether the transaction was at market value; whether it was below market value, whether it was above market value. In both cases there are good reasons for that but you would want to look at whether or not there was some less desirable reason. So you probably would look essentially at the market value or the above-market value and the relationship between the parties and whether or not there had been an unusual number of transactions within the residential complex. That is all.

1130

Mr Tilson: Mr Chair, all those are reasonable criteria. I guess my question is, if we were to stand this down, how long would it take you to prepare a list of criteria for a regulation?

Ms Harrington: We are not prepared to stand it down at this time.

Mr Tilson: Then, Mr Chair, I would move that subsection 100e(8) be struck out.

The Vice-Chair: No, Mr Tilson, that is not an amendment. You can vote against the section which would have that effect, but it is not an acceptable amendment.

Mr Tilson: Just so I understand the process, if it is voted down it is out of there. Is that it?

The Vice-Chair: That is right.

Mr Turnbull: My questions would be addressed to Colleen again. Colleen, my concerns are that when you gave your shopping list of criteria—and I do appreciate that you have helped us with that—I would make a few comments on it.

First, one of your criteria was the market value of the building. Now, the question would be, was that the market value that existed before the introduction of Bill 4 or after the impact of this legislation that has probably wiped 30% off the values of buildings? That is question number one.

Question number two is where you are talking about the interest rate on a mortgage being lower than market rate. Now in that case, we have heard the suggestion by the NDP government that maybe people were not making a good deal, and so if somebody has a deal where he has a mortgage at less than market rate, is that not one of the criteria? It is certainly one of the criteria I use for the good deal, but maybe we are creating a totally new world.

Mr Mahoney: We are; Toryism.

Mr Turnbull: And where we talk about numbers of transactions, would it not be better to have some sort of definition? I mean, we keep on talking about this question of flips and presumably that is the genesis of the suggestion that it be one of the criteria. But whenever we ask about some sort of definition, everybody slides away from it. So Colleen, your answers indeed raise probably more questions than give us comfort.

Mr Mahoney: A flip is what the government did when it brought in this bill. That is easy.

Mr Turnbull: Colleen, if you could answer those three questions I have put to you: (1) Is the market value to be the value that existed before the introduction of Bill 4 or after it when they have depressed the values; (2), is it a lower interest rate than current interest rates; (3), what type of number of transactions are we talking about?

Ms Parrish: The answer to the first question is that it would be the market value at the time of the transaction. I mean, you have to connect that transaction with the total rent increase which they are requesting to be justified, so it is whatever that is.

The second question you asked is whether there is inherently a problem with a below-market interest rate. There may not be, but you can design the following scenario where you deliberately enter into a non-arm's-length transaction in which you increase the capital value, you decrease the mortgage rate and then you refinance and pass through. Now, that transaction may in fact be completely in good faith, because you can have that in an arm's-length transaction as well. It is going to depend on the circumstances. If the entire intent of the transaction is essentially to increase the amount of cost pass-through, then it may indeed be a suspect transaction. It will probably be caught now by the hearings board under its authority.

That is the problem with the exercise of discretion and criteria. I can give you the criteria you would look at, but you would still have to go through a process of exercising discretion as to what is the combination of circumstances of a non-arm's-length transaction below market and so on. You still would have to look at the transaction and that is the problem. If you know everything, you can have a regulation. If you do not, if you cannot govern every situation you have discretion, and I understand the point that is being made by you and your legislative colleagues that you are uncomfortable with this discretion being exercised at this level.

It is exercised at the hearings board level. If this section went away, all that would happen is what happens now, that all of these transactions would go to the hearings board. Instead of being dealt with at an earlier stage, they are simply being appealed in every case. They will be forced up to the next decision-making level, so you will increase the number of these cases going on. They may go on in any event. I cannot remember if it was you or your colleague who said he would go on in any event. I am not sure that that is true. My experience at the financial institutions has certainly been that once people get caught in a transaction which has certain elements to it, and they know they have been caught, they will back off. So I am not sure if I concur with the belief that they will always go on to appeal. They will certainly go on to appeal if people think they have a bona fide case. I do not know if I can add much more. I have tried to give as complete an answer as I can.

Mr Turnbull: I would respectfully question whether the people who are at the basic level of hearing have the expertise to be able to consider these factors.

Mr Mammoliti: Point of order, Mr Chairman: This repetitive again. We have heard that two other times prior to this questioning.

The Vice-Chair: Again, I would urge the member not to be repetitive and to speak directly to the section.

Mr Turnbull: Relative to the set of questions that was asking, I think that was appropriate, Mr Chair. I would also ask that in view of the number of interruptions we have had by Mr Mammoliti about points of order which prove not to be points of order, I would ask the Chair perhaps to instruct Mr Mammoliti as to what is a point of order and what is not.

The Vice-Chair: You may continue. Mr Turnbull.

Mr Turnbull: Thank you. Mrs Harrington, I would urge you again to get ministry staff to come forward with some clearer criteria because all of these questions have raised a lot of questions and you will understand our discomfort.

Ms Harrington: I felt the discussion has been very productive as to what the meaning of this is and what the situations in the past have been and I think staff have taken your information and advice and we will do that.

Ms Poole: Mr Chair, I feel we have discussed this issue at great length and I would like to call for the vote.

The Vice-Chair: You want the question put, Ms Poole; just fine. Before the committee we have three subsections to be carried: subsections 100e(6), (7) and (8). We will deal with them one at a time.

Is it the pleasure of the committee that subsection 100e(6) pass? Carried. Subsection 100e(7)? Carried. Subsection 100e(8)? Carried.

Moving on to section 100f, does the parliamentary assistant have an explanation? Do you wish to do this in subsections? Subsection (1).

Ms Harrington: Subsection 100f(1) provides for the apportioning of total rent increase for the whole complex among all units. Subsection 100f(2) sets out the same step for apportioning the rent increase among units. The same percentage will be applied to the maximum rent for each unit. Other methods of apportioning the rent increase will no longer be available.

1140

Mr Mahoney: Does this in effect eliminate equalization?

Ms Harrington: Yes, I believe it does. That is in the next subsection, I believe. That is subsection 100f(3).

Mr Mahoney: So it is part of this section. But your comment was that the other means of justifying or allocating the percentage rents would no longer be available. I presume you are referring to equalization.

Ms Parrish: No. This does not actually have anything to do with equalization. It is simply saying that now you decide how much the rent increase is for the whole building. Say taxes have gone up in this whole building by \$10,000 then essentially you just say, "How many units do you have?" and you divide it all up. This just takes out some of the other methods of apportionment which are much more

complicated. Instead of just simply saying how many units there are and what their rent is, we add them all equally.

There are other systems that are used largely with capital and since capital is not an issue here, we have not put that in. For example, let's have a situation where you have a whole-building review in which you replace half the stoves in the entire building and you do not replace the other half of the stoves. You can apportion the rents so that only the people who get the stoves get more rent—I mean, for that part—and then everybody pays for their share of the roof.

Since we do not have all of those things in Bill 4, we felt that we would just go to the simple system, which is just equal apportionment. Because we do not, there is no reason to have all this stuff about the separate stoves and so on because we are not permitting it in the bill. Equalization is not dealt with here.

Mr Mahoney: Okay, I will pass for now.

Ms Poole: Is the effect of this that you are saying we will deal with whole-building review but not part-building review? Essentially, anything that you would have for part-building review is no longer in effect under Bill 4.

Ms Parrish: Yes.

Ms Poole: So you are really just clarifying—

Ms Parrish: Yes, you are quite right, because we do not have part-building review and we do not have any whole-building review application that could result in differential things happening. We just moved to a very simple system of division rather than the current system, which is more complex, because there are different factual circumstances that arise.

The Vice-Chair: Thank you. There being no further discussion, is it the pleasure of the committee subsection 100f(1) carry? Carried. Subsection 100f(2). Carried. Okay, we are on to subsection 100f(3).

Ms Harrington: I would like to comment on subsections 100f(3), (4), (5) and (6).

Subsection 100f(3) means that upon considering a landlord's whole-building review application, the maximum rent allowed may be less than what the landlord could have increased the rent to had the application not been made.

Subsection 100f(4) specifies that a justified rent increase will be applied to the previous maximum rent. If in considering an application a negative adjustment to the previous maximum rent is determined, the order would specify the previous maximum rent, ie, no negative adjustment.

Subsection 100f(5) limits the rent increase to the amount asked for in the landlord's application. Previously there was discretionary power to allow or to order increases for more than requested and that no longer will be able to do that.

Subsection 100f(6) allows for no justified rent increase. The previous maximum rent would be maintained. Thank you.

The Vice-Chair: Are there comments, questions or amendments? Seeing none, is it the pleasure of the committee that subsection (3), (4), (5) and (6) be carried? Carried.

Moving on to subsections 100g(1), (2) and (3); description by the parliamentary assistant.

Ms Harrington: Thank you. This section preserves a tenant's right to dispute an intended rent increase that does not exceed the guideline increase, which is the amount the landlord is permitted to increase the rent by without making application. The application must be made in the prescribed form. Provisions with respect to the time frame for making applications and submissions are retained. The criteria to be considered in reducing the amount of the rent increase are deterioration in the standard of maintenance and repair; discontinuance or reduction in services; degree of compliance with maintenance standards as established by the municipality or standards board. For example, if it is found that the landlord discontinues the services of a concierge, all or part of the intended rent increase amount may be disallowed. If the landlord is permitted by a valid notice of phase-in to add a phase-in amount to the guideline increase, the tenant may only dispute the guideline amount of this application.

I believe it is this section which also discontinues the equalization. There is no provision for equalization.

Ms Poole: It is not in 100(g).

Ms Harrington: It is not in 100(g), that is correct.

Ms Poole: But it would not be in 100(g) in any event, I do not believe.

Ms Harrington: It would have been one of those if it were going to be.

Mr Mahoney: Just on that issue of the equalization, are you saying normally it would be one of the factors that may or may not be allowed and therefore, because it is not here, you are disallowing it?

Ms Harrington: That is right.

Mr Mahoney: So in other words, the entire bill is silent on it?

Ms Harrington: That is correct.

Mr Mahoney: Am I, with respect, getting agreement from your staff on that?

Ms Parrish: Normally, in the past, tenants were able to apply for equalization. Therefore, in the section that says what tenants can do to reduce their rents, they have been able to say to the landlord, along with, you know, "I want my rent to go down because you have deteriorated the services and so on, or taken the service away," I could have said, "And I want my rent to go down because my unit is the same as your unit; I am paying more rent." That was the equalization application. The landlord then would be able to respond by saying, "Well, that is fine, I will equalize you downward, but I am going to have to equalize Ms Poole upward in order to make this work out." That is how the current system would have worked, and therefore, had you wished to look for equalization, this would have been one of the places you would have found it. But because this part is a complete part separate from the rest of the act, it is simply silent, but this is where you would have seen the tenant's application had it been preserved.

Ms Poole: In 100g it says that a tenant may apply to the minister in the prescribed form to dispute an intended

rent increase that does not exceed the amount permitted until section 100c. My understanding is that a tenant could apply to have a reduction in the guideline increase under this section.

Ms Parrish: Yes, I think so.

Ms Poole: I believe 100c refers to guideline increases, if I am not mistaken.

Ms Parrish: Yes, 100c is guideline increase.

1150

Ms Poole: So the effect of 100g would be that if tenants felt there was a decrease in the maintenance in their building or services that were provided, then the tenant could apply for the landlord not to get the statutory increase, or part of it.

Ms Harrington: That is my understanding.

Ms Poole: The difficulty I have with this section and with the way it is dealt is that it requires for a tenant to go to rent review and make application in order to effect any change and for most tenants, going to rent review is not an easy process. It seems to me to be a convoluted way in which to accomplish what you want to accomplish. The other thing is that there is no provision here for ongoing neglect of the building, which I think is a very real factor for most tenants who have had difficulty with rent increases when there is no maintenance. That is a real difficulty that they have had to face.

The scenario in these cases would be that a landlord buys a building that is in a state of disrepair. The landlord gets an extremely good price for it because of the fact that it is in a state of disrepair. Then the landlord does not perform the ongoing maintenance and minor capital that is necessary to bring this building up to standard, and yet the tenants would continue to be paying the guideline increases. I do not see how this section takes ongoing neglect into consideration and I also do not see how it can be justified in the complexity you are making tenants go through in order not to have to pay the guideline increase.

Ms Harrington: I would like staff to clarify. I thought under subsection (3) there where it says "maintenance standards for the municipality in which the rental unit is located" would deal with that. Maybe staff could comment.

Ms Parrish: There certainly are provisions here that deal with the situation where the standards have not been met. My understanding of ongoing and deliberate neglect is that essentially it is a defence to a capital application, so ongoing and deliberate neglect arise where the landlord says, "I have to do all this capital, and therefore I want to increase the rents and pass through that cost to you," and the tenants say, "Well, the only reason you have to do this is because you've been neglecting the property for years and years and years, and that is why this property is in such bad shape and therefore you should not get this." But in Bill 4, of course, we do not allow any capital pass-through and therefore that issue does not arise. So the shield of ongoing and deliberate neglect is not here because there is no capital application.

We do maintain the tenants' ability not to have to pay the guideline increase because basic standards are not

being met. The tenant does not have to go through the difficult task, and I agree with you that it has proved difficult of proving that there has been ongoing and deliberate neglect. They only have to say that it does not comply with the standards. They do not have to show that it was as a result of neglect which occurred in 1972 or something.

Ms Poole: One very problematic part of this section is that it does not deal with outstanding work orders, and for many tenants this is quite a problem that, according to the RRRA and the Ontario Building Code and the various standards of municipalities, landlords should not be able to neglect their buildings and leave outstanding work orders. However, in reality that is not the way it is worked, and according to the provisions in item 3 that you have outlined here, there is nothing to say that a landlord would have to satisfy that work order. There is nothing to beef up the various standards that are adhered to, and I just feel that it is a complicated way of dealing with a very real problem some tenants have, the neglect and lack of maintenance in their building and the fact that they have outstanding work orders which for several years have not been satisfied. I really do not see how this particular section is going to deal with that.

Ms Harrington: I think we certainly would agree that the ongoing maintenance and the neglect that has happened in the past are things we have to deal with. This is what we will be doing in the consultation paper, trying to come to grips with what is the best way of dealing with it, whether it is, you know, municipal bylaws or how—and I know you have put forward an amendment further on dealing with this.

Ms Poole: That is right.

Ms Harrington: So I certainly would agree it is something we are very interested in and that we are dealing with.

Ms Poole: As Ms Harrington has just mentioned, I have tabled an amendment with the committee that would deal with the outstanding work orders and provide a very simple mechanism for tenants. I would not have a problem supporting section 100g, but I will tell you that I support it only as a first step, in that, to my way of thinking, without the additional step of dealing with the outstanding work orders it does not protect tenants. I feel that it is not adequate. It does not go far enough, and so I would just put the committee on notice that we will be dealing with this in subsection 100t, which I think is where legislative counsel has advised me it would be best placed. Those are my initial comments.

Mr Tilson: Mr Chair, with respect to this section, I guess my question is to Mrs Harrington. We have heard testimony from around this province of landlords who simply will not be able to make expenditures on their buildings, whether to respond to work orders, to major capital expenditures—they simply will not be able to maintain them because they will not have the funding to do it.

We have heard testimony with respect to landlords, I believe, in Sudbury and Ottawa, commenting that this bill does not allow for situations where damage has been caused in buildings, and perhaps in the common area types

of buildings or in the individual units, by tenants or their invitees or their guests that would necessitate substantial repairs or renovations and that they do not have the funds to do that. And yet this section says that if there is going to be an increase, for example, because of taxes, on allowed taxes, the minister could overrule that increase because of the items in subsection (3), the way I read it at least.

If my interpretation is correct, having heard this testimony and having consulted with tenants and landlords around the province on these issues that I have referred to, would you be prepared to withdraw this section as requested?

Ms Harrington: Which section did you wish withdrawn?

Mr Tilson: Section 100g.

Ms Harrington: The whole section?

Mr Tilson: Yes.

Ms Harrington: No.

The Vice-Chair: Mr Tilson, that was a rather succinct response.

Mr Tilson: It certainly was, and I think it shows where this government is going. They do not care.

The Vice-Chair: Thank you. Are there further questions or comments on section 100g?

Ms Harrington: I just want to clarify the intent of this. It is so that when the maintenance is not there, when there is a deterioration, when services are taken away, tenants have the right to go to the ministry and get a reduction in rent.

That is what we are talking about here, when services are taken away or there is deterioration in the standards.

Mr Tilson: Mr Chair, in response to that, again I repeat the situation of where capital expenditures will not be made because of the financial implications of Bill 4. And I do not want to hear statements—

Ms Harrington: That is a different matter.

Mr Tilson: —like, “We are going to address that in the new permanent legislation.” We are talking about Bill 4. We have listened to people around this province and I submit that section 100g should either be withdrawn or substantially amended by your government in response to those positions, because they certainly sound like most reasonable positions to me. However, you have given me your very succinct answer, and I do not respect it but I will withdraw from any further questions.

The Vice-Chair: Thank you, Mr Tilson. We are at noon and should be adjourning, but if you are going to be short, Ms Poole, if you can give me some indication?

Ms Poole: I would not want to break precedents and be short, Mr Chair. Some things are beyond my control. I am short no matter what happens. But I have a number of questions to put to the ministry, so I would be happy to wait until 2 o'clock.

The Vice-Chair: Perhaps we can do that after 2 o'clock then. The committee is adjourned until 2 o'clock.

The committee recessed at 1200.

AFTERNOON SITTING

The committee resumed at 1413.

The Chair: When we adjourned, the committee was discussing subsection 100g(1), and I believe Mrs Poole had the floor.

Ms Poole: Mr Chair, just prior to our continuing of Bill 4 discussions, there was something I wanted to table with the committee which pertains to a discussion we had with ministry staff several days ago. They had talked about the table on page 13 of the green paper, "Comparison of CPI and Guideline Bases for Rent Increases." Well, the Multiple Dwellings Standards Association have actually prepared a document which gives figures so that members can actually compare CPI plus what the guideline increase has been since 1975 and the difference in dollar amounts on a particular rent. I think it might be helpful for members to have that so when we do go into the long-term consultation it may assist them with that particular section.

The bottom line of this is that under these figures, it becomes obvious that, comparing the CPI, which as you know is a nationwide figure, and the guideline increases that have been permitted since 1974, actually, the tenant of a building where the rent was \$3,000 for their unit on an annual basis in 1974 would have benefited, net, \$15,461.78 by using a guideline increase as opposed to CPI. The net benefit is probably even higher than that since the CPI does not recognize the very high housing inflation factor that we have in Metro Toronto.

So just before leaving this, I would ask if the ministry could provide us with figures for when we go into the long-term consultation for the housing inflationary figure since 1974 for Metro Toronto, to give us an idea of how that would even effect CPI.

Ms Parrish: You are asking for CPI housing for Metro?

Ms Poole: That is right.

Ms Parrish: I am not sure that figure exists. I am almost positive that it does not exist back to 1975. We will see what does exist, but I would be surprised if we have that information.

Ms Poole: If the ministry could provide whatever they do have and for as many years back as is available.

Ms Parrish: Yes, we will undertake to do that. I am pretty sure they did not start collecting CPI housing until some later date. In fact, there was only a CPI Ontario brought in fairly recently. It used to be national.

Ms Poole: Thank you very much.

Mr Tilson: Mr Chair, before you start clause-by-clause, I would like a question of the clerk if I could. The question gets back to the issue of the income tax person that we were considering asking to come to this committee. Do you know where we are on that? Can you refresh our memory as to where we are on that?

Clerk of the Committee: I am just going to refer that over to the researcher who has been looking after that.

Mr Richmond: Thank you, clerk. Mr Chairman, Mr Tilson, last week I spoke to a chartered accountant, a tax expert on the tax treatment of rental residential property, through the Institute of Chartered Accountants of Ontario. This private individual indicated to me last week that he would be generally interested and supportive of appearing before a body like this. I could not, because of the committee's uncertain schedule, give him a certain date. He could not, however, appear this week because of the actions of Mr Wilson in Ottawa today. I am expecting to receive a CV from this individual. I believe his name is Michael Fremes. I have not as yet received it. As soon as I do, I will share it with the committee and then the committee can make a decision in terms of a time. But because of the federal budget, this accountant indicated that this week would not be the best of times for him to appear. But he is willing to appear. Thank you. Are there any questions?

Mr Tilson: Yes. Mr Chair, there were other names recommended for consideration. There was a Professor Larry Smith. I am sorry, what is the name of the person that you had recommended or that you had been speaking to, Mr Richmond?

Mr Richmond: Michael Fremes. The other individuals, I do not have those—my recollection is those people were primarily academic economists. This fellow that I more recently have been speaking to is a tax accountant.

Mr Tilson: Well, Mr Chair, I do not care who we have as long as it is someone who has a knowledge of the up-to-date positions of the federal ministry as to what one can deduct and what one cannot deduct. And I do not necessarily think that a professor who teaches income tax, or writes papers on income tax, cannot come and provide comment to this committee. There were four names submitted to us. My question is that—the earliest that he can attend, we will be sitting again in the House. This presumes our clause-by-clause will be finished and it is all over. Surely we can get one of these people to appear either tomorrow or Thursday.

1420

The Chair: I hear your point, Mr Tilson, and it is a very good point. Maybe we could ask Mr Richmond to canvass the entire group on our list and we can take the first available person.

Mr Tilson: Mr Chair, might I suggest a motion to give them at least a couple of days' notice, that of this list that Mr Richmond has, that—

The Chair: Well, today is Tuesday and we adjourn on Thursday, so if we do it today they will have a couple of days' notice.

Mr Tilson: Yes. That is what I am suggesting. Say, at the opening of our hearings, at 10 o'clock on Thursday or an agreeable time during Thursday.

The Chair: You understand that involves interrupting the clause-by-clause?

Mr Tilson: Yes, it does. I do not think it will take that long, Mr Chair. I really do not. And I would accordingly move that Mr Richmond be instructed to request an individual to appear on Thursday to provide us with comments on this subject.

The Chair: And how long might we want to set aside for this discussion?

Mr Tilson: I would think half an hour to an hour.

The Chair: One hour?

Mr Tilson: Yes. It is only one point. I do not think it would take much longer.

The Chair: And you want to do that Thursday at 10 am or at 2?

Mr Tilson: Or at any other time during the day, whichever individual is available for Thursday.

The Chair: Maybe 2 in the afternoon might be—

Mr Tilson: At 10 am or 2 pm, whichever—I think we should be flexible to Mr Richmond on that as opposed to a specific time.

The Chair: Well, either 10 or 2. It will be very difficult during the middle of the afternoon.

Mr Tilson: I would like to be flexible on the time, that is all I am saying.

Mr Mammoliti: Is there a motion on the floor?

The Chair: Yes, there is.

Mr Mammoliti: Mr Chairman, on the motion, I would suggest that we prioritize and that we deal with clause-by-clause first and then have the tax person come and talk to us. It is very important to this government to go through clause-by-clause and to do it as quickly as possible, and I would recommend that we finish our clause-by-clause and then talk with the experts.

The Chair: Okay. Very good. Mrs Poole.

Ms Poole: Mr Chair, in the interest of time, I would just ask that we place the question.

The Chair: All in favour of—

Mr Mammoliti: Can we take a 20-minute recess, Mr Chairman?

The Chair: All in favour of Ms Poole's motion?

Mr Mammoliti: Are you calling the question, or—

The Chair: Yes.

Mr Tilson: The question has been called.

Mr Mammoliti: Would you mind if we get 20 minutes to get our group together?

The Chair: All right. Twenty minutes. The committee will resume at 2:45.

Mr Tilson: On a point of order, Mr Chairman: can that be done when the question has been—is literally on the verge of being voted on?

The Chair: It must be done? I cannot give twenty minutes?

Clerk of the Committee: The question has to be put and then if the 20 minutes is asked for, yes, it is done correctly.

The Chair: Yes, they can have their 20 minutes. We will resume hearings at 2:45.

The committee recessed at 1424.

1444

The Chair: We are now prepared to vote on Mr Tilson's motion. I would ask the clerk to read the motion before we vote.

Clerk of the Committee: Mr Tilson moved that a tax expert be invited to appear before the committee on Thursday 28 February at 10 am or 2 pm.

The Chair: All in favour? Excuse me. Ms Harrington would like to speak to the motion, but I want to explain that the rules do not allow that because the request was that the motion be now put.

Mr Tilson: If that is the case, Mr Chair, I request that the vote be recorded.

Mr Brown: We will give you unanimous consent.

Mr Tilson: Unanimous consent to hear from the parliamentary assistant.

The Chair: Well, if there is unanimous consent among the committee, then we will hear the parliamentary assistant.

Ms Harrington: I want to clarify the position of the government. When the motion was voted on in Ottawa, the intention was that we would hear the tax expert this week, because this week we would have finished the clause-by-clause. Being new, I guess we presumed that three days last week was enough for clause-by-clause, but we are finding out the reality is otherwise.

Mr Mahoney: Well, 20-minute delays.

Ms Harrington: Right. So our understanding was that we want to hear the tax expert as soon as the clause-by-clause is finished, and that is our position, just to make it clear. When this vote is defeated, or if this vote is defeated, I would hope that—

Mr Turnbull: Why are we having these hearings?

Ms Harrington: —if you want to put forward a further motion that we have the tax expert as soon as the clause-by-clause is finished, that would be fine.

Ms Poole: Mr Tilson may correct me if I am wrong, but I think part of his original presupposition was that a tax expert would be helpful in dealing with Bill 4 itself, not only in the long-term consultation; that was his original request. At the time Mr Tilson made this request, it did not appear that we would be able to have a tax expert last week, but now we have that opportunity this week and I think it would be helpful not only for the long-term consultation but also for completion of the clause-by-clause of Bill 4.

The Chair: Mr Brown and then Mr Tilson.

Mr Brown: Just to make life interesting, could the clerk tell us what the motion was that was made in Ottawa, precisely?

The Chair: We will find it right away or as quickly as possible.

Interjection.

Mr Mammoliti: Are you stalling, Clerk?

Mr Mahoney: Mr Chair, while we are waiting, I would just like to note that when the parliamentary assistant spoke—and Hansard, I am sure, will record same—she used the terms, “When this vote is defeated,” abruptly replaced by “if.”

Ms Harrington: When or if.

Mr Mahoney: I did not hear “or if,” and I am sure that Hansard will record it in the true way that it was said and meant.

The Chair: Is there anything else you want to tell us, Mr Mahoney?

Mr Mahoney: No, I think it is quite obvious that it is a cooked vote.

The Chair: The clerk, in response to Mr Brown’s request, will read the agreement that was made in Ottawa.

Clerk of the Committee: The motion was that a tax expert be invited to appear before the committee during the week of 25 February. The motion was carried.

Mr Tilson: Well, we are now here in the week of the 25th, Mr Chair, and I must confess the whole intent of that motion was to listen to such an expert prior to the debate on Bill 4 ending. And as Ms Poole has indicated, it does seem kind of silly to ask an expert to talk on something when that something has ended, namely Bill 4. So I think it is a most reasonable motion, and if the government members do not like the time on that particular day, I would be quite prepared to amend that, but I think that is the last day that has been scheduled for clause-by-clause.

The Chair: Can I recommend a compromise to the committee?

Mr Tilson: Of course, Mr Chair.

The Chair: How be if we have lunch brought in on Thursday and we can have the gentleman or lady appear before the committee over lunch hour?

Mr Tilson: If the government would—it sounds like a most reasonable request.

Ms Harrington: It sounds like there is some support here.

Mr Mahoney: Do you want 20 minutes to discuss it?

Mr Tilson: Sure, take all the time you like.

Mr Mammoliti: What happens to the motion?

The Chair: I am assuming the motion will be withdrawn and a new motion will be put forward suggesting that the individual come between 12 and 1 or 1 and 2, or between 12 and 2. That is if we can reach the appropriate individual.

Mr Tilson: Whatever time you want, George.

1450

Ms Poole: I would suggest the compromise would be acceptable to most members. My only concern is that the expert witness we are inviting might be available at another time during the day, and I would not want that to preclude the fact that we are hearing his testimony. So I would like some flexibility in there to say, as a first option, can the expert witness be requested to come between 12

and 1 or 1 and 2, and if that is not possible, to have the flexibility to schedule another time.

The Chair: That would be up to the committee to decide. Right now we are still discussing Mr Tilson’s motion. We are all very familiar with the motion. It is that we have an expert witness on tax matters appear before the committee this Thursday, either at 10 am or at 2 pm. We should either continue to talk to that motion or dispose of that motion one way or another.

Mr Abel: I would like to amend the motion if I could.

The Chair: A friendly amendment?

Mr Abel: Perhaps we could change the time frames, the 10 or the 2, and have the expert come in from 12 to 1 on Thursday, and lunch be provided.

The Chair: Or 1 to 2.

Mr Abel: We agree that it would be important to hear this person speak, but our concern is we do not want to cut into the time set aside for clause-by-clause. We feel it is very important that we get on with it.

Mr Tilson: Mr Chair, if the government members wish a working lunch, I have no problem with that. I would agree to that amendment.

The Chair: Why do you not withdraw your amendment, Mr Tilson?

Mr Tilson: If that is what you recommend, I would withdraw the motion and make a further motion suggesting the time frame of an hour between 12 and 2.

The Chair: Mr Tilson moves that on Thursday of this week we have an income tax expert appear before the committee between the hours of 12 and 2, and the committee will work through its lunch hour to hear this individual. All in favour?

Mr Abel: And that is for a one-hour period?

The Chair: For a period of one hour.

Mr Abel: Okay. Thank you.

The Chair: All in favour?

Motion agreed to.

The Chair: Now, Mr Richmond, do you have any information for the committee?

Mr Richmond: Yes, Mr Chairman. for the information of the committee, during the recess I managed to reach each of the four economists on the list that was distributed to you last week. Unfortunately, I mentioned the prospective times of 10 and 2, but I would presume the only one who can appear on Thursday is Professor Andrew Muller. The others are busy on that day. So I do not know whether that changes the situation. Mr Muller, however, did mention that he felt he was more familiar in terms of coming before the committee to speak to Bill 4 rather than tax matters. He felt he could brief the committee in general on income tax matters, but in talking to him, I got the impression that he did not regard himself as a true expert on income tax, but he is an economics professor.

The Chair: Well, how did he get on our list?

Ms Poole: Somebody thought he was an income tax expert.

The Chair: Well, we have to have the appropriate individual, I say to the committee, if we are going to go through all of these items.

Mr Richmond: As I mentioned earlier, the other individual who has not gotten back to us is a chartered accountant. However, he indicated that he was tied up this week because of the federal budget, but I could attempt to reach him again.

The Chair: Mr Richmond, why do you not just continue your search for the appropriate individual, and when you think we have an expert, please let us know? The committee has got to get back to regular proceedings. It is almost 3 o'clock. We have not dealt with any sections yet.

When we were last discussing subsection 100g(1), if memory serves me correctly, Ms Poole had the floor, and I cannot recall if you had completed your remarks.

Ms Poole: No, actually I was just beginning.

Mr Mahoney: Could I, Mr Chair, before Ms Poole goes on subsection 100g(1), could I make an inquiry as to the status of the amendment that was stood down with regard to conditional orders as to when we were going to have something back from the government? I thought that was today.

Ms Harrington: Could I—

The Chair: Certainly, please go ahead.

Ms Harrington: To my knowledge, the reason that we cannot deal with it today is the minister is not here and he wanted to respond directly to it. He will be here tomorrow and we would like to deal with that tomorrow.

Mr Mahoney: More delaying tactics.

The Chair: Yes, that was subsection 100e(2) that we had stood down. Okay, Ms Poole, subsection 100g(1).

Ms Poole: By the way, Ms Harrington, it might be good also to remind the minister—because my understanding is he cannot attend for the whole day tomorrow—that we stood down the section on mobile homes pending his attendance, so we might like to deal with that and the conditional orders at that time.

Ms Harrington: We will tell him. Thank you.

Ms Poole: Thank you. I had a few questions for the ministry. Under section 100g, where you have provided that a tenant may make an application at rent review to get release from paying all or part of the statutory increase if that tenant feels there has been a decline in the service or in the maintenance in their building, how long would it be anticipated that such an application to rent review would take? What are current time lines? If a tenant was to apply under this section for relief, how long would it be, in your estimation, before rent review had not only dealt with it but come to a decision and made an order in this respect?

Ms Parrish: I think it depends on the area that it is occurring in. There are statutory restrictions. There is a certain notice period which I think is 30 days, so you would have that minimum circulation time because you have to give the landlord the opportunity to respond; and then there would be variations depending on where it was filed because, as you know, some of the regions of the

province are pretty well current and therefore I deal with their tenant applications pretty well as they come in the door. They are still in some cases trying to deal with the backlog from landlord applications. In other areas, they are not current, notably in Toronto, and therefore they deal with them as quickly as they can.

I have to say that I do not know the average period of time that it takes to deal with a tenant rebate—it is not a rebate—a decline or a decrease in the statutory guideline application. I can undertake to find that out and inquire as to the average period of time from application to resolution.

Ms Poole: Right now when the standards board is involved and they go through rent review, the new improved time, my understanding is, is somewhere between 10 months and a year, and this is a significant improvement over what it used to be. This is for a rebate of the statutory guideline amount if a tenant is not getting appropriate maintenance service and if outstanding work orders are not being satisfied. One of the concerns I have with this provision is that it is a very unwieldy process as far as the tenant is concerned. They first of all have to apply to rent review. Then they have to go and prove their case and then, thirdly, they have to wait for an extended period of time and possibly an appeal by the landlord before they have any relief from this. Have you not considered any alternative which would provide the tenant with an easy mechanism to get relief when the landlord is not doing the day-to-day repairs, the ongoing maintenance, and providing the services he or she should be?

1500

Ms Harrington: I think it is very clear that what we hope to do as we have said many times is have the interim legislation and very quickly move on to how we are going to deal with these things in an effective and efficient manner in the long term. And that is what we are going to do in the green paper, to try and look at options to deal with this.

Ms Poole: Mr Chair, I would like to table with the committee a copy of a column by a tenant activist, Jeffrey Freedman, who writes for the Toronto Star. This is a column which specifically addresses Bill 4 and some of the not only potential difficulties with maintenance but the difficulties that are occurring right now because of Bill 4 and maintenance. So I would like members of the committee to have a copy of this. I am going to quote from several sections. In this column—and I can tell you, from reading Mr Freedman's columns in the past, that he is very much concerned with tenants and tenant protection, and that is one of his main goals—his opening paragraph starts out:

"As predicted, the new rent control legislation has caused deterioration of maintenance in some buildings in Metro." And then he gives specific examples in the St. Andrews Towers Tenants Association as to some of the difficulties they have incurred up there. And it says, "It is a strange coincidence that, as soon as the NDP fixed the cracks in the rent review legislation, landlords stopped fixing the cracks in buildings."

"Sure, there has always been a lag between the time problems in buildings are reported and when they are fixed. But the lag has never been as long as it is now."

"We can expect the deterioration to continue. Landlords are unhappy about rent controls and this is how they are going to let us know it.

"While they may not impose a complete moratorium on repairs and maintenance, we can expect to find landlords doing only what the law obligates them to do.

"The fridge that should have been replaced a year ago won't be replaced.

"The garage that needs more lighting and a new door won't get it.

"Unless city officials and the provincial government are made aware of how this neglect is jeopardizing safety and comfort, it will continue."

I think that very aptly states the severity of the problem. And to quote a famous phrase, "We ain't seen nothing yet." Under Bill 4, because there is no provision for capital repairs and because there is inadequate provision for maintenance, tenants are going to be facing these kinds of conditions in increasing severity as the year goes on.

So I would like to know what alternatives the ministry discussed for dealing with this in the short term. Not the long term; I certainly agree with you that we need very strong provisions for maintenance for the long term. But tenants cannot afford to wait and let their buildings deteriorate for a year and a half, or however long it takes for the moratorium to be over, to wait for relief. It is a major concern I have with this provision, the lack of timeliness to it and also the difficulty it gives tenants. Have you considered for Bill 4 any alternatives for dealing with the maintenance problem? Are there any options?

Ms Parrish: Yes, quite a few options were looked at and most of those are discussed in the green paper. The problem is that it is very difficult to intervene within a system that does not support the kinds of interventions. One of the problems you have now is that the way the current system is structured, there is actually a three-stage process. When you have a maintenance problem the municipality looks at the problem. They attempt to rectify it, and if they are unable to get compliance, they then send it to the standards board. The standards board then re-examines the whole issue and then sends it to the rent administrator who eventually has the power not to actually reduce the rent but just to suspend the new guideline increase. And there is no doubt that this is a fairly long line of supply.

This problem of delay, which I understand is about eight and a half months from the work order to the rent penalty, is quite a serious problem, and we do look at that quite extensively in the green paper. But it is very difficult, unless you completely rip apart the entire statute, to fix it, because you do not have the basic tools in some cases. For example, the people who impose the rent penalties are not the same people who do the inspection, and that seems to be a fairly critical problem in the current system. Of course you are going to have delay if you have three different groups looking at exactly the same issue and only one of them has the ability to impose a penalty and that penalty is very limited.

The problem is really that you need such substantial change in this area. It is very difficult to do it in essentially

an interim kind of bill without having a completely different kind of administrative structure to support it.

These were all looked at and that is why, in the end they were issues that were put forward for the whole system. It does seem to be in the minds of tenants and, in some cases, the minds of landlords that these issues have to be better connected, including the kind of administrative structure and decision-making in order to make the whole system work better.

So it is not that these issues were not looked at. We also looked at the issue of whether or not you could tie work orders and so on into rent increases. It is very difficult to do that within the existing statute without completely gutting it, essentially repealing the whole statute and starting again, which is what the long-term system does.

Ms Poole: As you know, I have an amendment which deals with maintenance, which deals with work orders in a speedy way to get relief to tenants, but I do not wish to address this right now because it is not the appropriate section to do so.

There is, however, one other item that I would like to bring up that is covered under section 100g, and that is equalization. Section 100g actually deletes the opportunity for a tenant application under equalization. Although I am not sure this is the information we got from the ministry this morning when we were told that section 100f did not deal with equalization, my understanding is that 100f deleted equalization by the landlord. But that has already passed; we cannot deal with that.

I would like to deal with equalization under section 100g, which is the tenant application. There are actually quite a few tenants who are very upset that the government has removed this particular provision.

As you know, equalization was a revenue-neutral provision for the landlord. The landlord did not gain one penny out of equalization; the landlord did not lose any with equalization. The principle is that for numerous reasons, rents for an identical apartment in a building would be \$350 for one and \$600 for the other. It was felt by many tenants that it was very unfair that they would be paying this kind of tremendous surcharge. So the difference was equalized: The tenant who was paying \$350 would be paying \$475 and the tenant who was paying \$600 would be paying \$475, so that the landlord was not a net winner or a net loser. I guess the only thing is that it provided a more even balance in the apartment building.

We were given some of the reasons why equalization was not being considered in the long-term legislation the other day by ministry staff but, quite frankly, I did not feel that we were provided with sufficient evidence to show that equalization should be taken out either in the short term or in the long term. As I say, it is something that many tenants feel they should have a right to and they are very upset that this is being removed.

I do not know if you have any comments other than that you are going to look at it in the long term, and I do not really want to hear that; I want to hear why you removed it from the short-term interim bill.

Ms Harrington: Okay, I will just comment. When I first looked at this, being new to rent control a few months ago, I felt the same way, that equalization sounds like a very fair thing and something that should be done. The problem that I have found with it is that it is very complex. It does not give the desired effect. Those tenants who have the lower rent are not happy when their rents are raised, and they think it is because of the other person within their building.

What we have done, as you have mentioned, is we have left that option open in the consultation paper. That is something we are still looking at, but we felt at this time—and that is why it has not been declared over the last three years, I guess—it was unworkable. And Colleen can explain a little further about why it was unworkable and why it was not declared.

1510

Ms Poole: Colleen looks stunned. Or contemplative, maybe.

Ms Parrish: I always look stunned. I am trying not to be repetitive and to give you the same explanation as I gave before because I know that it is irritating. I gave the best answer I could before, which is that I agree that in the best of all possible circumstances it is revenue-neutral. One of the problems we have in Ontario is that we do not always have the best of all circumstances because we do not always know what the legal rents are, particularly for smaller buildings.

So you may have equalization, and in theory you first of all adjust for your legal rents. But it is frequently the case that you do not know, because only the larger buildings, of course, have been caught by the rent registry today. So that is one issue that occurs largely—

Interjection: In smaller buildings.

Ms Harrington: It tends to occur in smaller buildings. I think it is true that some tenants like equalization and some landlords like it and some think it is sort of irritating because they do not get anything out of it and they have to go through all of this back-and-forth. It is definitely, I think, an issue which is open in the consultation document.

One of the issues around equalization is that, in Bill 4, by and large, you do not allow increases above the guideline. Essentially, you are sort of holding things in place. And if you permit it for equalization, you may get a lot of pressure for equalization in order to increase rents in certain areas. I do not think I can give a better explanation than that. I think that is the reason. It is complex. It has its supporters, but it also has its detractors, and it is more difficult to administer it in a system where the legal rents for smaller buildings, in particular, are not known with any degree of certainty. And sure, you can go through a certain process, but that can be complex as well. So there is always the fear that in the absence of a good information base you will be equalizing upwards against illegal rents.

Ms Poole: I would submit to you that that argument does not really have a lot of validity. If that landlord is charging an illegal rent already, then whether you codify it by equalizing the rents, to me, is totally irrelevant. That

landlord is still charging that tenant that rent. And that tenant is paying it. And if you are equalizing it, I do not see how that says you are codifying an illegal rent that the landlord is charging anyway.

I have never found that to be a problem with equalization, and we have had a number of calls to my constituency office about it. I have never had the complaint that the landlord was charging an illegal rent to begin with. The only problem I have ever found with equalization is that the tenant who is equalized on the other side, who has to pay more rent, is not as happy as the tenant who is equalized on the side where they have to pay less rent. But it just seems to me that it is revenue-neutral. It is not going to get the landlord one more penny in rent, and yet it would provide much more fairness to the system.

Mr Chair, I have a motion to make with regard to equalization and tenant applications, and I am firmly resisting Mr Mahoney's comments to my side, who keeps trying to compare this to market value assessment.

Mr Mahoney: Same thing.

Ms Poole: He always tries to be contentious.

Mr Mahoney: I am on your side.

Ms Poole: Not often.

The Chair: He is correct, though.

Ms Poole: Mr Chair, this is highly inappropriate, for the Chair to be making highly partisan comments.

Mr Turnbull: Dianne, I am with you. Do not worry.

Ms Poole: Yes, obviously Mr Turnbull has the discernment to tell the truth on that particular issue.

The Chair: Ms Poole moves that subsection 100g(3) of the act, as set out in section 8 of the bill, be amended by adding the following paragraph:

"5. Variations and the reasons therefore in the rent being charged by the landlord for similar rental units within the residential complex."

Ms Poole: This basically reinstates equalization as part of this particular section. And I would say to the ministry that I welcome your analysis of equalization in the long term, but given the fact that you have not provided us with any statistics or any hard data showing that it was problematic or that there is any reason why it should be deleted from Bill 4, I would submit very strongly that it should stay in until such time as the ministry obtains such hard data and statistics and an analysis of the situation beyond what was provided in the long-term consultation paper.

The Chair: I am assuming, then, that 100g(1) and 100g(2) are going to carry. Why do we not carry those two sections?

Motion agreed to.

The Chair: We are now dealing with an amendment made by Ms Poole to 100g(3) by adding a new paragraph 5. Any further comments, Ms Poole?

Ms Poole: Not at this time.

The Chair: Mr Mahoney, then Mr Tilson.

Mr Mahoney: Mr Chairman, I was not going to mention section 63, but let me, in fairness, point out a couple of differences. And I have a question of the ministry as to

how it would deal with this. In a market value system, you can determine—

Ms Poole: Mr Chair—

Mr Mahoney: No, just a moment. You are going to like this.

Ms Poole: I am?

Mr Mahoney: Yes, you are. Trust me. I am no longer with the government. You can trust me. In a market value system—

The Chair: You have been right on so far.

Mr Mahoney: —you can determine the value of the property based on its market value and make your adjustments. The concern I have—and we need a response from the government to make this amendment effective—is that we need some way of determining the value of the apartments. And that is where it really is, in all seriousness, different from a section 63 market value reassessment. The reason, Mr Former Minister who is totally unbiased in this, is that it is difficult to determine the many issues. For example, the term of the lease could have an impact on the rent that you pay. A landlord might give you a reduced rent in return for an increased term. You might be living in an identical apartment for which you signed your 10-year lease five years ago at an agreed-upon rent based on what was fair at the time, and you are paying your increments each year. I come in and negotiate a lease today that is five years in advance, and the marketplace could have turned around completely. There could be addenda to the apartment. One apartment might include broadloom and another one does not. One apartment might have newer appliances and another one does not.

And so there is a difference in that you are not comparing it to just the real estate value, which is what you are doing in the very fair system that is accomplished under market value, section 63. There are too many other issues in the mix. And I guess what I need to know from the parliamentary assistant is, would the government be prepared to undertake some method of determining that? Because clearly if tenant A is paying \$600 a month and tenant B is paying \$400, and they are under identical living conditions and terms etc, etc, then there is an unfairness there. And your government is the one who promised to bring fairness to all aspects of this province. Are you prepared to undertake some kind of analysis? I am going to support the amendment because I think it is fair, but in order for you to carry out the successful implementation of the amendment, you have got some homework to do, it seems to me, in coming up with—notnecessarily a huge bureaucratic system where you are analysing everybody's apartment and lease, because it would have to be done on the basis where the tenant could apply. In other words, if the adjustment were made in equalization and instead of paying \$600 and \$400 you had them both paying \$500, one with an increase, one with a decrease, obviously, as Ms Poole has pointed out, the one with the increase would be unhappy and could then apply to a rent review board or someone of that nature to do the analysis. If you do not put in that appeal process, then the amendment would have virtually no effect, even if it were to carry.

1520

Ms Harrington: I think you have brought up the point, really, of what I was saying, that it is unworkable at this time unless you have all kinds of other structures in place. And I was wrong in saying that it was not proclaimed. It was the other part of the bill that was not proclaimed, which was the chronically depressed rents. I am sorry about that, if I misled anyone.

But the system as it is now, you are saying it is not workable unless you have a whole new structure, and the answer to your question is no, we are not prepared to look at that at this time, because this is an interim bill.

Mr Mahoney: Mr Chair, I am sorry, I did not say you need a whole new structure. What I said is you have to recognize a process within the existing structure that gives the tenant the right to appeal. And I do not think there is any need for that to be very cumbersome or difficult. They simply appeal and say: "You raised my rent based on equalization and I submit that my apartment is not equal to John Doe's apartment and here is why. I have a different term lease, I signed it at a different time," whatever it is. And the same review board would hear that and adjudicate the matter.

It does not need to create a whole new system. If you agree with the unfairness of having one person pay substantially more rent for the same accommodation than another, then maybe you should say so. I would be surprised that you would ever agree, and if you do not agree, why not do something about it within the system that is in place? You do not need to create a new bureaucracy to solve this.

Ms Poole: It is workable, eminently.

Ms Harrington: Yes, I said how I felt about it at the outset and I could just conclude by saying that under this legislation we are not prepared to look at it. But, as you know, as soon as possible this year we are trying to get a workable system in place.

Mr Tilson: I have a question on the main section as opposed to the amendment, Mr Chair.

The Chair: We should be discussing the amendment.

Mr Tilson: I have no questions on the amendment.

The Chair: Can we wait until we deal with the amendment, and we will get right back to you, Mr Tilson? Any further comments on Ms Poole's amendment?

Mr Tilson: Recorded vote.

The Chair: A recorded vote has been requested.

The committee divided on Ms Poole's amendment, which was negatived on the following vote:

Ayes—3

Brown, Mahoney, Poole.

Nays—8

Abel, Harrington, Lessard, Mammoliti, Tilson, Turnbull, Ward, M., Wiseman.

The Chair: The amendment has been lost.

Ms Poole: They have won, they have won. The Conservatives now see the socialist party leader.

Interjections.

The Chair: Mr Tilson, I believe you wanted to make a comment on the main section.

Mr Tilson: With respect to subsection 100g(3), I have two questions of perhaps Ms Harrington or the staff, and that is whether or not there should be an item indicating that this list, these factors, are not exclusive, that there might be other factors.

Ms Harrington: I am sorry, what do you mean by exclusive?

Mr Tilson: Well, the subsection says: "The minister shall consider the following factors on the application," and there have been four factors. Should there be a fifth item that indicates that this is not an exclusive matter?

Ms Harrington: I would like to ask staff to answer.

Ms Richardson: Perhaps I could address part of the answer in that under previous rent review legislation, this kind of application has been available both under the Residential Tenancies Act and under the Residential Rent Regulation Act. Under both of those pieces of legislation, there have been very limited grounds on which tenants can challenge a rent increase, and the grounds especially concerning deterioration in the standard of maintenance have been the ones that have been used the most when this kind of application is brought forward. The discontinuance and reduction of services has also been traditionally part of the grounds on which tenants can bring forward these kinds of applications.

The tenants, of course, in the context of a whole building review can bring forward these kinds of concerns, and in the course of the whole building review is when a landlord's costs are being examined. These are not cost-based items. These are the kinds of things that tenants would be most familiar with and, as I say, have traditionally been grounds for this kind of an application.

Mr Tilson: I appreciate what you said, although I would hope that the factors would be of a more universal nature. For example—and, again, I am trying to respond to the comments that have been made to this committee through the hearings throughout the province—there might be a situation where landlords simply do not have the funds, because of the regressive nature of Bill 4, to maintain certain standards; and if that argument can be reasonably put forward by a landlord in that specific situation, that is a factor that may justify, for example, why some particular work order has not been completed.

Ms Richardson: That kind of situation would be captured either under number one or number three or number four.

Mr Tilson: With respect, I do not think it would. Number one indicates that the standards of maintenance and repair may have indeed deteriorated. I mean, we have heard of some situations where standards of maintenance in buildings have deteriorated drastically, and answers have been given to us by landlords that the reason they are deteriorating is that they do not have the money to maintain them because of rents that, for whatever reason, have

not been increased over the years, or simply for the fact that they do not have the funds.

It may be, for example, that something needs to be done to the building to maintain the standards, and that requirement by, for example, a municipal bylaw or by a rental standards board may break the landlords' back if they are forced into it and may put them into bankruptcy because of the funds that are required for capital expenditure that they do not have. And again, I therefore ask, should there be a clause? These are sound reasons that the minister should consider, but there may be others, and I have not really put my mind to it. There may be others. I am just thinking of examples as we are sitting here, but those, I think, are two sound reasons that the minister should consider. Would you agree?

Ms Harrington: I think we are getting into a little different area here about maintenance and capital expenditures. This section is strictly dealing with lowering of the rents by an application of the tenant. I think maybe we could deal with that concern in another section.

Mr Tilson: Well, with respect, Ms Harrington, it is dealing with the maintenance standards of a building. If maintenance has deteriorated, then this section says that the applicant should not get their increase or may not get their increase depending on what ruling the minister says.

Ms Harrington: That is right.

1530

Mr Tilson: And subsection 3 says that the following are the factors. I still say that there may be other factors that favour the tenant. I have listed two that may favour a landlord, but there may be other factors that we have not even thought of that are of very great concern to the tenant as to why that increase should not be allowed.

Ms Harrington: Well, I think staff has said that these are the reasons that have been used in the past, and there are other—

Mr Tilson: I thought you were trying to change the past.

Ms Harrington: Yes.

Mr Tilson: I thought you were a party of the future.

Ms Harrington: Very good. I am glad you are seeing the light.

Mr Tilson: No. I have not seen the light. I would like to see some signs of it, though.

Ms Harrington: Good. If there are other factors that we should be considering, I hope that you will bring them to our attention.

Mr Tilson: I just brought two examples to your attention.

Interjection: Would you care for forty more?

Mr Tilson: We do not need them.

Ms Harrington: And we will hopefully deal with them in the long term. But what we have done is put down the factors that we feel should be used in an application.

Mr Mammoliti: On a point of order, Mr Chairman—

Mr Tilson: Who are you ordering it from?

Mr Mammoliti: Somebody.

Interjection: Mr Mahoney.

The Acting Chair (Mr Mahoney): I take the chair on the condition I do not recognize Mr Mammoliti. Do you have a point of order?

Mr Mammoliti: Yes, Mr Chairman, I do have a point of order. I have got a problem with the questioning. We have heard the answer—

The Acting Chair: That is not a point of order.

Mr Mammoliti: Well, I am saying that it is repetitive. That is a point of order.

The Acting Chair: You have made that point many times already this morning, and it is not a point of order.

Mr Mammoliti: And I am going to continue making it, Mr Chairman.

The Acting Chair: Okay.

Mr Mammoliti: How do you rule?

The Acting Chair: It is not a point of order.

Mr Mammoliti: On a point of privilege, Mr Chairman.

Mr Tilson: That is repetitive too.

Mr Mammoliti: The questioning is repetitive. How about a point of hot air?

Interjection: Well, I would certainly agree with that.

Mr Tilson: Mr Chair, if I could proceed with my second question. The second question I have is with respect to whether or not factor number one—

Mr Mammoliti: It was a point of privilege, Mr Chairman.

The Chair: Order. We have a point of privilege. Mr Mammoliti.

Mr Mammoliti: I mentioned that this line of questioning is repetitive and nobody seems to be giving me an answer. We are wasting time with the questions, and I would ask the Chair to rule.

The Chair: I have to ensure that all members feel they are an effective part of the process, and I have to allow members to put their questions. While it may be true that some questions may sound repetitive, if you listen to the nuances it appears that members are coming at a particular subject from different angles and different degrees of different angles; and there is a purpose to that. And the purpose, I understand, is to be able to understand the many effects certain sections of a piece of legislation may have.

If the questions were direct in nature asking for certain specific policy statements from the ministry or figures, those types of questions which basically have to be asked very directly, if they were being repetitive, then I think I could agree with you, Mr Mammoliti. But there are differences in the questions that are being asked by the members. Maybe they are trying to get at the same point but they are coming at it from many different angles. So for the present time, I am going to have to rule against your point of order—

Mr Mammoliti: Point of privilege.

The Chair: Point of privilege—well, it was not a point of privilege. I am going to have to rule against your

point of order, and I am going to allow the questioning to continue.

Mr Mammoliti: I was told it was not a point of order either.

The Chair: I believe all members have heard your concerns, and I am sure all members are going to try not to be repetitive, but in this business sometimes it does sound as if we are being repetitive. But, as I said earlier, there are many different angles to approach the same subject so I am going to ask Mr Tilson to proceed.

Mr Tilson: Thank you, Mr Chairman. The second question that I have is with respect to subsection 3. My question is to Ms Harrington: Does factor 1 conflict with factor 4? In other words, could the deterioration of the standard of maintenance and repair that affects a rental unit—it might be substantially higher than is required by a municipal bylaw or by the provincial rental standards board, thereby putting a hardship on the landlord.

Ms Harrington: Okay. You are saying that the landlord has a rather high standard of maintenance.

Mr Tilson: No, I did not say that.

Ms Harrington: No?

Mr Tilson: I said that all buildings are different. Some residential accommodation is of medium standard, some is of luxury standard, and the standards of maintenance may be substantially higher in a particular building as opposed to the provincial regulations or the municipal bylaws. So therefore, my question is whether, because of that, factor 1 conflicts with factor 4.

Ms Harrington: I do not quite get what you are getting at here. You are saying if the standard deteriorates but does not go below the—

Mr Tilson: Conceivably the standards of factor 1—it is possible they may deteriorate for a particular building, but not indeed for factor 4. I guess my question is, what does deterioration mean, and in whose eyes?

Ms Harrington: Not being an expert, I would think that factor 1 would be above and beyond factor 4. Number 4 would be a minimum standard, and factor 1 would be a building where there is good maintenance that the tenants are used to and that standard has been set in that building; if that deteriorates they want a compensation in their rent.

Mr Tilson: What is the standard?

Ms Harrington: In that particular case, it says, "A deterioration in the standard of maintenance and repairs that affects the rental unit." So, the tenants, if they are used to a certain level of maintenance and repair which they can prove has been there, and those standards are not there any more and they can prove that, then they would apply for this decrease in the guideline amount.

Ms Poole: If I might provide a point of clarification on 3 and 4—and the ministry, of course, is free to correct me if I am wrong—my understanding is that factor 3 refers to a situation where the municipality has maintenance standards and they have established bylaws to deal with them. Factor 4 is quite different because they are dealing with municipalities that do not have these bylaws in place.

So in the absence of any local bylaws, the maintenance standards established by the Residential Rental Standards Board would hold sway. So the two are not actually in conflict with each other at all. One just deals with municipalities that do not have any bylaws, and the other deals with municipalities that do.

Mr Tilson: Mr Chair, Ms Poole is quite correct. Therefore, does factor 1 conflict with factors 3 and 4, one of which has the municipal bylaw, one of which has the provincial requirements?

Ms Harrington: No, I do not believe they conflict.

Mr Tilson: I think they do.

1540

Ms Poole: With relation to the factors outlined, paragraph 100g(3)3, I am looking to find what criteria there are in the draft regulations that you have supplied to assist the rent review administrator in making these determinations. The reason I ask this is that it is not always obvious what a reduction in services, for instance, would constitute. I had a building in my riding where the landlord unilaterally took out half of the lobby to put in a convenience store, and the tenants had the argument that they had had a reduction in services because the couches were taken out. The place for them to have friends in was removed and something else put in that the tenants did not want to have here in the first place because it violated security provisions.

Well, the answer from rent review was that it was not a reduction in services. So, I do not know. I would be much happier if some of these things such as the deterioration in the standard of maintenance and repair, the reduction in services or facilities, if there were some criteria that would guide the rent review administrator in determining that indeed these things have occurred and that a rent increase should be stayed or deleted. Otherwise I think you are going to have tenants who spend an awful lot of time and effort making arguments and defences and do not get any assistance.

Ms Harrington: I will ask staff to answer.

Ms Richardson: It is quite correct that there are no specific regulations dealing with that, and as you have pointed out, it is a very difficult area because the standard of maintenance and repair, for instance, varies from building to building, and it is very difficult to capture a rule that explicitly deals with those kinds of things. Our staff do try to look at the particular circumstances of the building in these kinds of cases, and as I have mentioned, the difficulty is finding a rule that is appropriate for all buildings, and dealing with it in the regulations in that way. We are certainly always looking towards improving how those kinds of criteria are established and, you know, we could certainly look at some of the criteria that you would like to suggest.

Ms Poole: Would you consider establishing criteria via regulation or are you just suggesting that there might be guidelines to assist rent review administrators in having a uniform application?

Ms Richardson: I would have to ask my legal colleagues about the regulation-making authority, but assuming

that we had that regulation-making authority, that kind of criteria could be established in regulations. The question, though, is how long a list are we going to make and what would be the appropriate things to deal with? From experience I know that this actually is a very difficult area to make some rules.

Ms Poole: If you had a list that was not exclusive but gave rent review administrators a guideline for most of the scenarios, I think that would be helpful to them. Otherwise, the tenant is going to have quite a difficult time in proving that there has been a deterioration in the standard of maintenance. Most tenants do not run around with cameras saying, "Well, on 1 January 1989 this is what my hallway looked like, and this is what it looked like on 1 January 1991." In the best of all possible worlds, of course, they would have done that, and you would have nice, bundled-up proof. What I am quite often dealing with is trying to help tenants put together a case where they are showing a deterioration in the standard of maintenance. You not only do not have that, you do not have a necessarily uniform application at rent review as to what constitutes a deterioration or a reduction in services, which is what I originally mentioned. So I think it would be helpful.

Ms Richardson: By leaving it the way that it is set out here, it actually gives the broadest possible scope to look at a number of different criteria rather than just being restricted to certain very specific criteria. So this actually may address more situations than having very strict rules about what can be looked at and what cannot.

Ms Poole: Well, I do appreciate that, and I am glad you are going to be looking at some sort of guidelines; and if I can be of assistance I would be happy.

The Chair: Any further questions on subsection 100g(3)? Seeing no further questions, all in favour?

Interjection: Carried.

The Chair: No, the Chair says, "Carried." Members raise their hands. Carried.

Ms Poole: On a point of order, a point of information, a point of clarification, whatever you would like to call it—

The Chair: Try one and let's see how it goes.

Ms Poole: Okay, let's try on a point of order, Mr Chairman: just when I was leafing through my very large pile here, I happened to find on the bottom a letter from the Association For Further Ontario's Rental Development, which I believe was distributed to members today. Is that correct?

The Chair: Yes.

Ms Poole: Anyway, it appeared on my desk and it appears that they are inviting all committee members to attend a meeting that they are interested in setting up with two internationally known experts, William Tucker of New York, I believe, and Professor Ingemar Stahl of Lund University in Sweden.

They have asked that we reply to this as soon as possible. They phoned me, I think yesterday, and mentioned that they are interested in having these experts over for a meeting of their own and would members be interested. I indicated my own interest.

Could we perhaps give them some indication at this time whether members would be interested, all or some of us, in attending such a meeting?

The Chair: Well, it is definitely not a point of order. We are discussing information that has been made available to the committee as a whole and I guess that is in order, if there are no objections.

I do not know how to deal with your question because it appears to me that each member will have to make an individual decision.

Ms Harrington: I might suggest that one of the evenings, either Monday or Tuesday, we could ask the clerk to book this room so there would be a place that we are familiar with available to any of us who would like to come. These two people certainly seem to have a lot of interesting background. I certainly would be interested.

The Chair: I think we should just leave it up to the individual members.

Mr Tilson: I think all members of the committee would agree that it would be most useful to hear this individual. I guess I am looking for comments from the committee that, assuming we will shortly be finishing the clause-by-clause and assuming this committee will also be hearing some individuals with respect to the green paper, perhaps this individual could be added to the list whenever clause-by-clause is over, unless we are trying to get this person in before this committee submits Bill 4 as amended.

Ms Harrington: They are only here on the one date.

Mr Tilson: Oh, they are only available the one day. Is that what the letter says?

Ms Poole: They are flying in from Sweden and New York. Those are the only two days they were available for committee members, and I think that was why it was suggested that we might like to take advantage—

Mr Tilson: I would be interested in hearing them, Mr Chair.

The Chair: The clerk reminds me that when the Legislature is in session, we are only authorized to sit on Thursdays as a committee. So we definitely cannot sit as a committee Monday and/or Tuesday unless we get authorization from the Legislature.

Mr Tilson: We could sit on the Monday.

The Chair: How is that?

Mr Tilson: I do not believe the House commences until the Tuesday.

Ms Poole: No, it starts on the Monday.

The Chair: The 18th.

Mr Tilson: Oh, does it? Okay. Then I guess we have a problem.

The Chair: Unless I am incorrect, the way I read this letter was that while it was addressed to the clerk, it was copied to all the individual members and I assumed that every member would treat this piece of correspondence as an individual invitation. I could be interpreting it incorrectly. As a committee, I do not know what we possibly can do.

Ms Harrington: I thought we could just book the room.

The Chair: Yes, other than that, other than making room available.

Ms Poole: I guess the only problem with that, Mr Chair, is if we wanted to have Hansard and I do not know whether you felt this was necessary.

The Chair: Well, if we had Hansard, that is a formal sitting of the committee. I wish we could sit on Monday or Tuesdays, but we are only authorized to sit on Thursdays, am or pm. That is the day that we have been assigned.

1550

Ms Harrington: Then we will have to sit informally.

The Chair: Each individual member would have to treat this invitation exactly as that, an invitation for each and every one of us to decide on our own how to respond. We will make sure that this room is available if it is necessary and we will carry on from there. In regards to Mr Tilson's suggestion that they be put on a list for possible discussions in regards to the green paper, I guess because they are from different—is it Sweden or Switzerland?

Ms Poole: Sweden and New York.

The Chair: Sweden. Well, maybe the individual from New York may be able to fly in, but I would assume that the other person would have a difficult time. I am not averse to having the person from New York put on a list with the possible consideration that he may be able to come and discuss matters with us more fully at a further date. We can do that.

Mr Tilson: Mr Chair, I would support that either individual, if for some reason they are available at a later date whenever the committee is sitting to review the green paper, be added to that list. I do not think we appear to have the time restraints that we thought we had with respect to the discussions of the green paper, and there is nothing to preclude us from adding further authorities such as this to the list.

The Chair: My understanding is we will be able to meet regularly every Thursday to discuss the green paper.

Mr Tilson: Yes.

The Chair: It will be up to the committee to decide whom we are going to see and when.

Mr Tilson: We do have a list—whether that list needs to be revised—that the three parties have agreed on, Mr Chair.

The Chair: I do not hear any objections, so by adding either one or both of these people to the list, I would be in fact revising our original list. I hear no objections so I am going to ask—yes, Ms Ward.

Ms M. Ward: Would that involve the committee paying for flying this person from Sweden? I mean, if they are here for one day, it seems rather—

The Chair: It may or may not. I just remind the committee that in the past, I have seen committees, particularly in the field of energy, scour the world for experts. I cannot tell you from memory whether or not their expenses were paid when they came to give testimony or advice or information.

We are passing legislation which is going to affect over one million units and I do not know how many tens of thousands of landlords. It is certainly a lot cheaper to have an individual come here than for all of us to go to New York or elsewhere.

Ms Harrington: I just want to put on record that, as of this time, there is certainly no intent to fly people in. The phone call that I received and that other parties received yesterday was that these people would be here and willing to address us here at Queen's Park and that we would then be able to take advantage of that situation. So I think that is the way it is at this moment.

Ms Poole: That was certainly my understanding as well, Mr Chair, that these individuals were going to be here and that the committee would have no part—

The Chair: We had already dealt with the point that you raised; it was dealt with by the committee. The point that I was addressing was the concern raised by Mr Tilson who was very specific in what he wanted to have done. He asked that the committee make arrangements to hear these individuals when we were further discussing the green paper.

It has been noted that we will be discussing the green paper on Thursdays when the Legislature convenes. He asked specifically whether or not, if we added these individuals to our already established list, that would in fact be appropriate, and I responded by saying that unless I heard some objections it certainly was appropriate. And then we got into the subject of how we were going to get these people here if we wanted to hear from them.

That is a decision that this committee will have to make.

Mr Tilson: Mr Chair, my feeling is that we are dealing with a letter from AFFORD dated 26 February, signed by Mr Satchu, and my position would be that Ms Deller inform Mr Satchu that this committee is unable to meet on the 18th or 19th and that we would provide AFFORD an opportunity to produce these individuals if they wish to present them at a date on which we are discussing the green paper. In other words, AFFORD already is on the list to speak on their own behalf, if I recall, with respect to the green paper and I suppose, if it is understood that over and above the presentation made by AFFORD, perhaps if AFFORD wished to make these people available for the committee, we would provide that time to them.

The Chair: That is somewhat different than a committee inviting them.

Mr Tilson: Yes, it is.

The Chair: It is a substantial difference, but it is up to the committee to decide.

Ms Poole: There are two possibilities. One is to ask the House leaders for permission to meet after question period on the 18th or 19th. The other possibility is that the clerk would notify AFFORD that the invitation has been proffered to the individual members and that they will be signifying, as individuals, their interest in attending this meeting.

The Chair: I appreciate that, but my understanding is that the committee has already dealt with your initial point.

Ms Poole: I do not recall it being dealt with, Mr Chair.

The Chair: All right. We will redo it.

Ms Poole: No, I think the comment was made that we would need House leaders' permission in order to sit. I am just saying that we could request it.

The Chair: My understanding is that we sit by motion. We are authorized to sit on Thursday by a motion of the Legislature which is agreed to by the House leaders in advance. So somebody is going to have to pass a motion on Monday afternoon so that we can sit Monday evening. That may or may not happen. So do we want to keep these people waiting until 5 o'clock Monday or 6 o'clock Monday before they finally know whether or not we are going to be here as a committee? And finally, has the committee decided—I thought we had decided but I guess it was not clear enough—whether or not we want to do that?

Mr Wiseman: Just a couple of points that I would like to make. First, we do not know how much relevancy these two individuals have in the debate or what they can contribute to the debate in the first place, so I would recommend that we get the researcher to research some of the articles and some of the work that they have already published, and make that available to the committee for their perusal, and then perhaps a decision as to whether their expertise in the area is relevant to what we are doing or not will warrant us making these supreme efforts.

The Chair: Any further discussion? Mr Tilson and Mrs Harrington.

Mr Tilson: Mr Chair, I would like some response because obviously when the government has the votes on this committee, we have to pretty well do as it wishes. Again, I repeat, this letter came from AFFORD. What is wrong with indicating to AFFORD that obviously, for technical reasons, this committee cannot sit on those two days, but that we would be pleased to hear one or both of these individuals when we are inviting certain groups to appear before this committee to discuss the green paper?

Ms Harrington: From my conversation with this person, it was fairly clear that these people would only be here for a very short time and that this letter is an invitation for us to hear them at this date. I think we had a consensus on this committee, or a feeling anyway, that as individuals we are invited to hear these people at this time. I think that is as far as it can go. I do not think we should really go any further with it.

1600

Ms Poole: I agree with Mrs Harrington both as to the availability of the witnesses and the fact that that may be as far as we can go. I would suggest, though, that it is because the letter has been addressed to the clerk of the committee that we ask our clerk to notify AFFORD that there is interest by individual members on the committee in attending such a meeting, and would they please let members know, so that we can RSVP to it, as to the final date, time and place.

I think Mr Tilson's suggestion that they be put on the list for the green paper may be problematic simply for the cost of flying them in, and this is our opportunity as members to avail ourselves of the information. I think we should really grasp it while it is with us as an opportunity. If there is a consensus by committee members who are attending this meeting that these are worthwhile witnesses that we would like to come back for the long-term consultation, there is nothing to preclude us from doing it at that time.

The Chair: Well, we continue to deal with two points without resolving one or the other. So we have to either bear down and resolve one or both, or we are going to move immediately back into clause-by-clause. We are pressed for time. Committee members have stressed to me their concern about getting done etc, etc.

The first point to resolve is whether or not committee members will make themselves available, as individual members of the committee, on Monday or Tuesday. If you wish to make yourself available on the Monday, as was suggested by Mrs Harrington, and, as was further suggested, we make this room available, then it is incumbent upon every member of the committee to tell our clerk as soon as possible so that she can inform AFFORD that we have a number of members who wish to see these international experts; this is the time, this is the place and this is the location.

What I would not like to see happen, and I have no authority over this, is that we book this room and we have these individuals come with a lot of enthusiasm about meeting a committee and only one or two of us show up. I do not think that would be fair.

So I think within the next few days it would be appropriate if committee members would advise the clerk as to what they want to do; then when we find out, say by Friday morning, how many members are available, we will pass that information on to AFFORD.

The second matter that we have to deal with is whether or not we want to call these people back as experts to consult with us during the green paper process. There have been two points of view put forward. One is that we invite the individuals as a committee. The other is that we inform AFFORD and AFFORD bring these individuals to the committee at the appropriate time.

So I want to know from the committee members which route they would rather go. Would you rather inform these individuals as a committee directly or would you prefer to go through AFFORD?

Ms M. Ward: I do not see a need to do either. I expect AFFORD knows the consultations are going to be held. I understood they are already on the list of potential participants. Since they have taken the initiative to invite these people here, if they felt there was something to be gained by having them back, they would do so and apply to appear before the committee. I do not feel that we need to take any initiative in that regard; not at this point anyway. We have not even gotten into the consultation process.

The Chair: Very good. Any other point of view?

Ms Poole: I would just support your suggestion that we notify the clerk of our intention to attend a meeting and

signify which of the two days we would be available for this, and that the clerk could then transmit this information to AFFORD.

The Chair: As for the second part, the point that Mr Tilson made, we are not going to deal with that point.

Ms Poole: There is nothing to preclude us from dealing with it at a later date once we have met with these witnesses and determined whether indeed they might have some valuable insight.

The Chair: Very good. So the consensus of the committee is that by Friday morning we will have informed the clerk of the committee, on an individual basis, as to whether or not we are going to be available on the 18th or the 19th and whether or not there is enough interest to meet these two experts as has been suggested by the AFFORD group.

Moving along, did we pass 100g? I am informed that we should pass 100g as an entire section. All in favour? Carried.

Moving along to section 100h. That is the 8th one. We would ask the parliamentary assistant for an explanation to subsection 100h(1).

Ms Harrington: This section sets out what is to be contained in an order as a result of a landlord application for whole building review, or a tenant application to dispute an intended rent increase, or in an order which replaces an order issued before the bill receives royal assent.

The order shall contain the maximum rent that may be charged for each rental unit and the date the maximum rent takes effect. The order may also specify that the landlord or tenant pay moneys owed to one another as a result of the order as well as other terms and conditions.

The ordered maximum rent will be effective for 12 months for the rental unit.

The Chair: Any questions on clauses 100h(1)(a) and (b)? Any discussions? All in favour of 100h(1)(a) and (b)? Carried.

Can we please have an explanation for clauses 100h(2)(a) and (b)?

Ms Harrington: I gave you the explanation for subsections 100h(1) and 100h(2) together.

The Chair: Okay. I am sorry, I missed that. Any questions on 100h(2)(a) and (b)? All in favour of clauses 100h(2)(a) and (b)? Carried.

Ms Harrington, could we have an explanation for subsection 100h(3)?

Ms Harrington: Yes, I did that one as well.

The Chair: You did that one as well.

Ms Harrington: The ordered maximum rent will be effective for 12 months for the rental unit.

Ms Poole: How does this tie in with current provisions that a landlord may only raise the rent in a rental unit once every 12-month period? What is the reason for this particular wording and what is the difference from that provision?

Ms Richardson: Perhaps I could address that. It is parallel to that provision and supports the provision that there can just be one increase in a 12-month period. It actually makes quite explicit what the period of time the

ordered rent is in place for. There may indeed be cases where the ordered rent is less than guideline, and a landlord may want to take guideline rather than the order. This says it is the ordered rent that is the maximum rent, which would be the lower amount in my example.

Ms Poole: Could you perhaps describe a scenario where the landlord would be given a rent less than the guideline amount?

Ms Richardson: In the case particularly of the tenant dispute. That is exactly the kind of order where you would get less than the guideline amount because a tenant is disputing a guideline increase.

Ms Poole: I see. So you are saying that it might be a pending increase that is in dispute.

Ms Richardson: Yes. That is an example.

Ms Poole: So what would be the scenario if this provision was not in the legislation?

Ms Richardson: This actually clarifies what the operation of maximum rent and an ordered maximum rent is all about. And indeed this has certainly been the approach that rent review has always taken in these cases. It sets it out quite explicitly.

Ms Poole: So basically what you are saying is this codifies the practice.

Ms Richardson: Yes.

The Chair: All in favour of subsection 100h(3)? Carried.

All in favour of section 100h as a whole? Carried.

Section 100i.

1610

Ms Harrington: When an order has been delayed at least three months after the first effective date of increase, it may stipulate that the outstanding rent may be paid over a period of 12 months in equal monthly instalments. The tenant still has the option of paying the entire amount in a lump sum. The tenant may continue to pay in instalments where the order contains such a provision even if the tenancy is terminated.

For example, if an order is issued four months after the first effective date of rent increase and a tenant owes the landlord \$600, the order may provide for spreading the payments over 12 months. In this case, the tenant may elect to pay \$50 per month over the ensuing 12-month period.

Mr Tilson: My question to Ms Harrington is whether there is a minimum figure. In other words, you could get down to where a nominal amount would be paid each month which administratively would be foolish. Did you canvass that with your staff when this was being prepared?

Ms Harrington: I think there would logically be some sort of minimum that you would not divide by 12.

Mr Tilson: I do not know. Is that in the regulation? Or have you thought of that?

Ms Harrington: Maybe you would like to comment if there is a figure.

Ms Richardson: Finding such a figure is somewhat of a challenge. One hundred dollars may not seem a lot to

some tenants but it is a lot to other tenants who cannot manage saving \$100 in a lump sum. So there is no minimum amount that is actually set out in the legislation.

Mr Tilson: So conceivably they could be paying \$2 a month.

Ms Richardson: Yes.

Mr Tilson: Thank you.

The Vice-Chair: Thank you. Any further comments or questions?

Is it the pleasure of the committee then that section 100i carry?

Ms Poole: Is this 100i(1) or both?

The Vice-Chair: It is 100i(1).

Ms Harrington: Subsection 1 and 2? We did both together, actually.

The Vice-Chair: Just for clarity then, is it the pleasure of the committee 1 and 2 carry? Carried.

Mr Tilson: do you have a motion relating to section 100i(a) which would come before 100j?

Mr Tilson: No.

The Vice-Chair: Moving on to section 100j, the parliamentary assistant has a comment.

Ms Harrington: Thank you. As you may notice, we have an amendment which is really just a clarification, a little more detail instead of the one line that we had for section 100j.

The Vice-Chair: Ms Harrington moves that section 100j of the act, as set out in section 8 of the bill, be struck out and the following substituted:

"100j(1) No tenant is liable to pay any rent increase in excess of that permitted to be charged under this part.

"(2) Nothing in this part limits the relief available to a tenant or the power of the minister under subsections 95(2) and (3)."

Ms Harrington: This amendment basically just clarifies the intention to continue the ability of the tenant to make an application under section 95 of the act if excess rent has been paid, and the ability of the minister to make the appropriate order in such circumstances. Section 95 relates to tenant rebates.

The Vice-Chair: Questions, comments or amendment relating to the government amendment?

Ms Poole: Just a request for clarification, Mr Chair. Under remedy, subsection 2, it says, "Nothing in this part limits the relief available to a tenant or the power of the minister under subsections 95(2) and (3)." Could the ministry clarify what kind of limitations there might be that would limit the relief available to a tenant? I am not quite sure of the purpose of that.

Ms Richardson: I am afraid I am at a loss to describe what the additional limits might be. Section 95 itself, subsection 2 and subsection 3, as you note, are quite lengthy sections, and they also deal with the concept of maximum rent and 1 August 1985 when the concept of maximum rent takes effect and how to calculate the rebate amount in relation to those things. When we were reviewing the wording of Bill 4, it came to our attention that perhaps the

original wording did not capture the essence of section 95, and that was the reason why we have introduced this amendment.

Ms Poole: Well, that is interesting, but I am not sure a great lightbulb has gone off in the sky for me. With all respect to legislative counsel, I know that sometimes it is necessary to put in some boiler-plate legal terms to make sure everything is in full force and effect, but I just cannot quite see a reason to put this in if there is nothing limiting the relief available to a tenant.

Ms Richardson: I really am at quite a loss to describe what some of the legal limits might have been.

Ms Poole: Might I just suggest, Mr Chair, that we give the ministry an opportunity to respond, either with the other two staff here, or if tomorrow morning they just wanted to give a brief explanation before we actually pass this section. There is something in me that rebels against passing something when I do not know what it means.

Ms Richardson: Perhaps, Ms Poole, I would ask Christina Sokulsky, our legal counsel, to address this particular issue.

Ms Poole: Thank you.

Ms Sokulsky: My name is Christina Sokulsky. I am senior solicitor, rent review section, Ministry of Housing, legal branch. I would also like to call on my colleague's assistance, legislative counsel assistance, in responding to this question. But my understanding is that this wording is meant merely to adopt the provisions in subsections 95(2) and 95(3), and I am not aware of any limitations. I mean, I cannot answer the question of what limitations there might have been. It is my understanding this language was employed in order to make it clear that the remedies or the relief and the powers of the minister in subsection 95(2) and subsection 95(3) are preserved in this part.

Ms Baldwin: I do not have anything to add to that. In terms of the wording, that is correct. I thought that Ms Poole was asking for more substantive information about what subsections 95(2) and 95(3) were about, and I thought perhaps you were in a better position than I to respond to that.

Ms Sokulsky: Oh, all right. Is that your question, Ms Poole?

Ms Poole: My actual question was, what type of limitations would there be that you would have to put in a part saying that nothing in this part limits the relief available to a tenant?

Ms Sokulsky: It is my understanding it is employment of a certain drafting style.

Ms Baldwin: Perhaps now I understand your question better. There are rights for tenants, relief available to tenants and powers granted to the minister under subsections 95(2) and 95(3), and we are just trying to ensure that under part VI-A those are retained.

Ms Poole: Okay.

The Vice-Chair: Is that perfectly clear, Ms Poole?

Ms Poole: It is clear enough that I think I will feel silly if I pursue this. It does not seem to do much harm. I

am not sure it does much good, but I guess it cannot hurt to pass it then.

Ms Harrington: Just a quick comment. In the original section 100j it says, "Nothing in this part limits the right of a tenant," and in this other language we said, "limits the relief." I think the word "relief" has thrown us because it seems a bit out of context. But apparently, according to our lawyers, this second version was better than the first.

Ms Poole: I bow to the supreme wisdom of legislative counsel and all the other lawyers who have conspired on this particular amendment.

1620

The Vice-Chair: Thank you, Ms Poole. Is it the pleasure of the committee, then, that this amendment be carried?

Motion agreed to.

The Vice-Chair: Shall section 100j, as amended, be carried? Carried.

Section 100k. Do you wish to deal with these as subsections 1 and 2 or separately?

Ms Harrington: Together, please.

This provision continues to allow an order to separately set out and declare the maximum basic unit rent and maximum separate charges such as parking and cablevision. Other rules with respect to separate charges will continue to apply. Certain separate charges may be equalized in an order. The maximum rent may be increased or decreased according to prescribed rules when certain services are added or discontinued and the landlord and tenant agree. However, any agreement as a result of coercion is unenforceable. Finally, it is clarified that an increase in maximum rent resulting from such an agreement does not violate the 12-months-between-increase rule. This is the same as the current law.

Ms Poole: Mr Chair, to quote the former member Sam Cureatz we all loved so dearly, I find this passing strange that under the regulations for 100k we are talking about the equalization of separate charges, the same equalization which mere paragraphs ago we deplored as unworkable, unfair, unjust—

Ms Harrington: Oh, I did not say that.

Ms Poole: —and all those terrible things.

Mr Tilson: Who said that?

Ms Poole: I think they did.

Ms Harrington: Not quite.

Ms Poole: Now we are going to bring in equalization of separate charges under section 100k, under the regulations. Tsk, tsk.

Ms Harrington: Maybe we should explain that word "equalization" here.

Ms Poole: Oh, it has got a new, improved meaning? Interjections.

Mr Mahoney: Acrimonious? Where did you learn that?

The Vice-Chair: Order.

Mr Mahoney: Did you swallow a dictionary or what?

Ms Richardson: Perhaps I could address this particular subsection. In the Residential Rent Regulation Act

here has been a provision that separate charges—and the most commonly known separate charge is parking—could be equalized separately. Whether you were equalizing the rents in the building, it did not matter; you could equalize the charges for parking so that all parking spaces would have, for example, a \$50 charge, rather than variations in that charge. The immediate equalization of separate charges usually results in a very, very small variation from the previous rent, and it is a calculation that does not depend on a number of different factors. A parking spot is a parking spot—it might be indoors or it might be outdoors—and it is the kind of finding that can be made quite easily in a rent review order.

Ms Poole: Well, as the former member Sam Cureatz said many times, this is passing strange, Mr Chair. I think what we have had here is that—

The Vice-Chair: So was Sam.

Ms Poole: —we will not equalize rents for tenants, but we will equalize rents for parking spaces, and the sole difference seems to be based on the amount of rent. So maybe what we could do is take a new look at section 100g under these new terms that have just been described to us and put a cap on so it would only equalize small rent increases. Would that be suitable for the ministry if that is the sole criterion?

Ms Harrington: I think what this section is doing is preserving what had been in the previous one.

Ms Poole: That was my intention, too, with my equalization amendment, to preserve what was in the RRRA. So we had common intent.

Ms Harrington: I see. We have already argued the previous consideration so I will leave that be.

Ms Poole: Okay, Mr Chair. I guess we do not want to be consistent. So if we do not care about being consistent, I guess we can go ahead and pass equalization in section 100k where we resisted it mightily in 100g.

The Vice-Chair: Thank you, Ms Poole. Are there further comments, questions or amendments? Seeing none, is it the pleasure of the committee that section 100k pass? Carried.

Moving on to section 100/l. Parliamentary assistant?

Ms Harrington: This provision preserves sections 98 and 99 of the legislation. Section 98 pertains to the subsequent rental of a unit which was rented at any time on or after 29 July 1975 and was not rented for a period of time. In this case, the maximum rent is the amount the landlord would have been able to charge had the unit been rented and proper notice of rent increase been issued by the landlord. This would be based on the annual guideline and any ordered amount.

Section 99 pertains to units rented for the first time since 29 July 1975. In this case, the rent charged by the landlord when it is first rented is the maximum rent except as otherwise provided in the regulations. This is the same as in the current law.

Ms Poole: Am I to take it from 100/l this means that if a landlord had a unit vacant for an extended period of time, under this provision the landlord would be allowed to

charge the current maximum rent, which would include any guideline increases which accumulated in the meantime?

Ms Harrington: That is the intent, I believe.

Ms Poole: I have a little bit of difficulty with this simply because one of the concerns I have always had, which I believe was also a concern of your minister when he was in opposition, was that for various reasons certain landlords leave units vacant for extended periods of time. This was when we were in the middle of a very serious housing crisis. In fact, there was talk at one stage of having a vacant apartment tax to penalize a landlord if he left his or her unit vacant. There were some allegations that a landlord might do this in order to try to vacate the building and then change the use and this type of thing, that it was an effort to circumvent the Rental Housing Protection Act.

Anyway, I would not like to offer any encouragement to landlords who might be prone to leave their apartments vacant for extended periods of time, to say: "Well, it is okay. We will allow you when you eventually do rent it to have accumulated the guidelines."

Ms Harrington: Could I ask staff if they feel that would be the case, that this would encourage landlords to vacate units?

Ms Richardson: I would point out that it also works the other way. People who have not been able to rent their unit are not limited then in the amount of rents that can be charged. And there may be a variety of reasons why a rental unit is indeed left vacant.

This kind of provision means that a separate application does not have to be made in order to establish a new rent when that rent comes back into the market as well.

Ms Poole: So you would be referring to the type of instance where there might be a unit, say, in a duplex, where for some reason there is no rent charged for a year and a half because the landlord's mother-in-law is living in there.

Ms Richardson: Exactly.

Ms Poole: You are trying to make things fairer for that landlord so that he or she can, at the end of the day, not lose money by the fact that they were not charging rent for that period.

1630

Ms Richardson: Another factor of course is when you compare this particular section to the previous legislation. Under the Residential Tenancies Act, if a unit had been vacant for 12 months, it virtually became unregulated. This actually limits the amount of rent that can be charged when it comes back into the market. It can only be the ensuing guidelines or maximum rent concept, so this is a protection from that previous situation.

Ms Poole: So you see it not as an encouragement to leave a rental unit vacant but in fact a tightening up of previous legislation?

Ms Richardson: Yes. That was the previous reason why it was in the RRRA.

Ms Poole: That seems reasonable.

Ms Richardson: We do like to be fair to landlords, strange as that may seem.

Ms Poole: Once in a while. I am sure they will be quite heartened by that comment.

The Chair: Any further comments? All in favour of section 100/1? Carried.

Ms Harrington, an explanation for section 100m, please.

Ms Harrington: This section clarifies that the prohibition against collecting additional charges, most often referred to as "key money," continues to apply to a landlord, a person collecting on behalf of the landlord, a tenant or person acting on behalf of a tenant. This is the same as in the current law.

Ms Poole: This, too, is passing strange, Mr Chair, because in their previous reincarnation as an opposition party, the NDP said time and time again that they felt that the provisions regarding key money under the RRRA were totally inadequate and did not deal with the problem. And now we have Ms Harrington on behalf of the government today saying, well, maybe they were wrong in all those accusations; it was working perfectly well, and we would like to reinstate it in Bill 4. Might I ask the ministry if they took a look at the key money issue when they were drafting this particular section and whether they took a look at whether they could strengthen it and make sure that it was more enforceable and was actually a deterrent to either landlords or sometimes other tenants from charging key money?

Ms Harrington: I would just comment first. A lot of these sections, I believe, that we are going to be doing now—instead of having to refer back to the RRRA, we have taken the same sections just to make it a little bit

easier. It is not that we feel these are the answers in the long run. Hopefully what the NDP said last year still applies. We did not change everything that we could or wanted to. That is coming.

To answer your direct question as to whether the ministry has looked at key money, I will ask Dana for clarification.

Ms Richardson: Obviously, there have been a number of prosecutions for key money offences. In the green paper there are certain improvements that are being suggested as even the preferred approaches for the government to strengthen some of those sections having to do with key money.

But there is a larger enforcement issue, and a number of different kinds of enforcement issues, that are being discussed in the green paper that would be tied in with improving this particular section.

Ms Poole: Hope in the long term.

That is all, Mr Chair.

The Chair: All in favour of section 100m? Carried.

I just want to inform the committee that some of the other committees of the Legislature have adjourned to watch the federal budget. I was wondering if there was any interest for the standing committee on general government to do the same. Ms Poole.

Ms M. Ward: Cry now or cry later.

Ms Poole: In my opinion, it is trading one form of masochism for another, but I would be quite amenable to that.

The Chair: Any other opinions? I would like to see it.

Mr Mahoney: You have the gavel.

The committee adjourned at 1635.

CONTENTS

Tuesday 26 February 1991

Residential Rent Regulation Amendment Act, 1990, Bill 4	G-801
Afternoon sitting	G-816
Adjournment	G-832

STANDING COMMITTEE ON GENERAL GOVERNMENT

Chair: Mancini, Remo (Essex South L)
Acting Chair: Mahoney, Steven W. (Mississauga West L)
Vice-Chair: Brown, Michael A. (Algoma-Manitoulin L)
 Bel, Donald (Wentworth North NDP)
 Bisson, Gilles (Cochrane South NDP)
 Drainville, Dennis (Victoria-Haliburton NDP)
 Duignan, Noel (Halton North NDP)
 Harrington, Margaret H. (Niagara Falls NDP)
 Iammoliti, George (Yorkview NDP)
 Murdoch, Bill (Grey PC)
 O'Neill, Yvonne (Ottawa Rideau L)
 Scott, Ian G. (St George-St. David L)
 Turnbull, David (York Mills PC)

Substitutions:

Oppen, Shirley (Niagara South NDP) for Mr Bisson
 Lessard, Wayne (Windsor-Walkerville NDP) for Mr Duignan
 Mahoney, Steven W. (Mississauga West L) for Mrs Y. O'Neill
 Poole, Dianne (Eglinton L) for Mr Scott
 Wilson, David (Dufferin-Peel PC) for Mr B. Murdoch
 Ward, Margery (Don Mills NDP) for Mr Bisson
 Wiseman, Jim (Durham West NDP) for Mr Drainville

Clerk: Deller, Deborah

Staff:

Baldwin, Elizabeth, Legislative Counsel
 Hunter, Leith, Legislative Counsel
 Richmond, Jerry, Research Officer, Legislative Research Service



G-18 1991

G-18 1991

ISSN 1180-5218

Legislative Assembly of Ontario

First Session, 35th Parliament

Official Report of Debates (Hansard)

Wednesday 27 February 1991

Standing committee on general government

Residential Rent Regulation
Amendment Act, 1990

Assemblée législative de l'Ontario

Première session, 35^e législature

Journal des débats (Hansard)

Le mercredi 27 février 1991

Comité permanent des affaires gouvernementales

Loi de 1990 modifiant
la réglementation des loyers
d'habitation

Chair: Remo Mancini
Clerk: Deborah Deller

Président : Remo Mancini
Greffier : Deborah Deller

Published by the Legislative Assembly of Ontario
Editor of Debates: Don Cameron



Publié par l'Assemblée législative de l'Ontario
Éditeur des débats : Don Cameron

Table of Contents

Table of Contents for proceedings reported in this issue appears at the back, together with a list of committee members and other members taking part.

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at (416) 965-2159.

Languages in Hansard

Hansard reports all debates in English or French as spoken by the participants. It does not translate remarks made in either language. Headings and tables of contents reflect language use.

Subscriptions

Subscription information may be obtained from: Sessional Subscription Service, Publications Ontario, Ministry of Government Services, 5th Floor, 880 Bay Street, Toronto, Ontario, M7A 1N8. Phone (416) 326-5310, 326-5311 or toll-free 1-800-668-9938.

Table des matières

La table des matières des séances rapportées dans ce numéro se trouve à l'arrière de ce fascicule, ainsi qu'une liste des membres du comité et des autres députés ayant participé.

Il existe un index cumulatif des numéros précédents. Les renseignements qu'il contient sont à votre disposition par téléphone auprès des employés de l'index du Journal des débats au (416) 965-2159.

Langues paraissant dans le Journal des débats

Le Journal des débats rapporte en anglais ou en français les débats, selon la langue utilisée par les participants. Les remarques faites en l'une ou l'autre langue ne sont pas traduites. La langue des en-têtes et de la table des matières reflète la langue utilisée.

Abonnements

Pour les abonnements, veuillez prendre contact avec le Service d'abonnement parlementaire, Publications Ontario, ministère des Services gouvernementaux, 5^e étage, 880, rue Bay, Toronto (Ontario) M7A 1N8. Par téléphone : (416) 326-5310, 326-5311 ou, sans frais : 1-800-668-9938.

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON GENERAL GOVERNMENT

Wednesday 27 February 1991

The committee met at 1020 in room 151.

RESIDENTIAL RENT REGULATION AMENDMENT ACT, 1990

Resuming consideration of Bill 4, An Act to amend the Residential Rent Regulation Act, 1986.

Section 8:

The Chair: The standing committee on general government is called to order. The committee continues to review Bill 4 in clause-by-clause fashion. When the committee adjourned yesterday, we were at section 100n of the act. My understanding is that the committee has agreed to stand down section 100n, has it not? The committee I guess is going to agree to stand down section 100n, from what I have been told.

Ms Harrington: Mr Chair, I would request that section 100n be stood down until 2 o'clock when the minister is here because it deals with the conditional orders, which are related to clause 100e(2)(f), which we were dealing with a couple of days ago, which was stood down.

The Chair: Very good. So we are going to proceed to section 100o and we need the parliamentary secretary to give us a description of that particular clause.

Ms Harrington: Subsections 100o(1) and (2) provide for the treatment of certain whole-building review orders which have been voided because the first effective date of the rent increase is on or after 1 October 1990. Where specified factors were allowed on the voided order, the findings made on the voided order shall be used for purposes of providing a replacement order. These findings are similar to what will be allowed on whole-building review orders as of 1 October 1990 and will include the following: extraordinary operating costs with respect to municipal taxes, heating, hydro, water, insurance and cable television; changes in financing costs; changes in services and facilities or standard of maintenance and repair, and financing costs no longer borne by the landlord. Where the voided order contains no findings with respect to any of these items, a replacement order will not be provided.

Are there any questions?

Mr Mahoney: On clause 100o(2)(a), there was an amendment in a previous section by Ms Poole, I believe. It was a friendly amendment to a Conservative amendment that when we were talking about the garbage being added, and perhaps someone can help with the wording, was it "other costs as prescribed" or something of that nature?

Ms Poole: "And other prescribed costs."

Mr Mahoney: To be consistent, it seems to me that amendment should be made here as well.

The Chair: We should have an answer for you in a moment.

Mr Mahoney: There is probably no need to be consistent, but—

Ms Poole: Why start now?

Mr Mahoney: Yes. Or "any other prescribed costs"? Would I be correct that that should be amended wherever throughout this bill that this wording appears?

Ms Parrish: I think you are right and I will just check with legislative counsel as to the exact wording.

Mr Mahoney: Thank you. You cannot get anything by us guys.

Ms Baldwin: I believe it is correct that in clause 100o(2)(a) it would be necessary, where it says, "but only with respect to municipal taxes, heating, hydro," etc, to add "or the prescribed costs." That is not exactly the wording, but if you will give me a minute I will figure it out. I do not think it is necessary, but if you think it is, point out anywhere else in the section.

Mr Mahoney: Well, I do not know. There may be other places in the bill where that exact wording is used.

Ms Baldwin: We will certainly look out for that, and if we have the committee's concurrence, we will just go ahead and make that addition whenever that list comes up in the bill, if the committee would like to proceed that way.

The Chair: I think that is how it has been handled in the past where we have made amendments such as this and it affects other sections in the bill.

Ms Baldwin: Yes. If I have the authority from the committee to do that, I would be happy to do so.

The Chair: Is there a consensus?

Ms Harrington: Yes.

The Chair: I believe I see a consensus for that.

Ms Harrington: Thank you very much for pointing that out.

The Chair: Thank you, Mr Mahoney.

Mr Mahoney: You are welcome; happy to help.

Ms Poole: Regarding the enumerated matters that are outlined in subsection 100o(2), which "applies in respect of relief respecting" and then lists four different categories, it mentions in category (b) "concerning financing costs." Is this just clarifying that any orders which provided for financing costs for rent increases effective on or after 1 October 1990 would be voided from any order? Is that the correct interpretation of that?

Ms Parrish: The impact of these sections would be to say that if there was an application and an order issued that had sort of a mixed bag of things, some of the things would be permitted under Bill 4, such as interest rate changes, and some would not, such as hardship relief. Instead of making everybody go back to square one and reapply, you simply substitute an order that says, "Okay,

we'll take out all the things that you're not allowed to have under Bill 4, but we'll issue an order that allows you to keep the things that you are allowed," to avoid the situation where the person has to make a reapplication. It simply takes out all the things that you are not allowed to have but retains all the things you are. So if you are allowed an interest rate cost-through, you have applied for it and it has been approved under your order, you do not have to redo the application, you just reissue an amended order that says you get 2% interest rate cost pass-through or whatever.

Ms Poole: The confusing part that I found was that clause 100o(2)(a) referred to something that will be allowed under Bill 4 and that the other areas, such as clause (b), do not. Am I correct then in saying that the listing under item 2 is not necessarily what is excluded from Bill 4, it is just a list of everything that would be addressed in an order?

Ms Harrington: I would like to clarify. I think I am correct on this. It says "relief respecting the following items," and the first, (a), are the extraordinary operating costs and it lists those. In (b), from what I read out in my comments about it, it is the changes in financing costs, and that is what clause 75(b) means. It is just the changes in financing costs.

Ms Poole: So that would be the changes in interest rates then, is that correct?

Ms Harrington: Yes, that is correct.

Ms Poole: So that is not referring to financial loss?

Ms Harrington: No, it is not.

Ms Poole: Or economic loss or anything of that nature?

Ms Harrington: Am I correct on that?

Ms Parrish: Yes.

Ms Harrington: It could be a little clearer, but when it refers to clause 75(b), it refers to changes in the interest cost, interest rates.

The Chair: So there is nothing here to do with refinancing? Colleen, is that correct?

Ms Parrish: Yes. This does not stand on its own, but combined with other sections it means essentially that you reissue the order only for those things permitted under Bill 4.

Ms Poole: And in clause 100o(2)(c), where it refers to "changes in services and facilities or standard of maintenance and repair," is that simply referring back to the fact tenants can apply to rent review for relief from paying the statutory guideline if it is proven that there is a decrease in these areas?

1030

Ms Harrington: Yes, I believe so. Is that correct, Colleen?

Ms Parrish: Yes. This is a situation where, as a result of a whole-building review order, the landlord has asked for more money and the tenants have responded by saying: "But you shouldn't get quite that much money because you've withdrawn a service. You no longer have a security guard or you no longer give us free parking" or whatever. It just makes sure that you put in and out all the things that

you would have put in in the original order, taking out those things that are not permitted on Bill 4.

Mr Tilson: How does this come about? I am looking at the procedure as to this order, the order that is to be made by the minister. How is it initiated?

Ms Harrington: This section I believe deals with an order that was already applied for and now parts of that order will still apply and parts will not.

Mr Tilson: I understand that. This deals with a new order, so my question is, you have the old order under subsection 75, which is void, as deemed by this act. This is a new order. How does this new order come to be? I know the minister makes the order, but how does the minister go to make the order? Does he just unilaterally make it or does someone have to apply?

Ms Harrington: I think that is going to be done automatically if they have already applied, that the rent review will take the parts that apply under Bill 4 and will then reassess the order. Maybe staff could clarify exactly how that is done.

Mr Tilson: I am sorry?

Ms Harrington: Maybe staff could clarify exactly that process.

Mr Tilson: Hey, that was my question.

Ms Parrish: Subsection 100o(4) sets out that the minister shall make an order based on the operating cost allowance calculated in these earlier sections. So later sections say that the minister shall make that order based on this. So there would be a process that if you already have an order, then subsections 4 and 5 set out how that process would work.

Ms Harrington is right in the sense that it would be an automatic process in which the people who issue orders would redo the order and then issue it as an order based on the previous material that had been filed and the previous findings. This is to avoid having to make all of these individuals reapply and go through the waiting period and the circulation period and so on. If they are not satisfied with their order, of course they would still retain their rights to appeal it.

Mr Tilson: How many orders are there affected? I think you have given us material on that, but do you know offhand?

Ms Parrish: I will just check with my colleague. I think it is about 194 or something like that. He is nodding his head, so I think it is 194.

Mr Tilson: Thank you.

The Chair: Any further questions? Seeing no further questions, is the committee prepared to carry subsection 100o(1)? Carried.

Subsection 100o(2), clauses (a) to (d), inclusive? Carried. We would ask the parliamentary secretary to give an explanation for subsection 100o(3), please.

Ms Harrington: Subsection 100o(3): In calculating the justified increase on a replacement order, this subsection sets out the method of calculating the operating cost allowance. It is the guideline as of the first intended rent

increase multiplied by the landlord's gross potential rent. This is not a change. It is basically just putting this into the amendment instead of having to refer back to the original act.

The Chair: I see no questions for subsection 100o(3). Shall that section of the act carry? Carried.

Moving right along to subsection 100o(4).

Ms Harrington: Under subsections 100o(4) and 100o(5)—I will do them together—we have a government amendment for subsection 100o(5).

The Chair: Ms Harrington, before we can move the amendment to subsection 100o(5), we should carry subsection 100o(4).

Shall subsection 100o(4) carry? Carried.

Ms Harrington: Thank you.

The Chair: You are welcome.

Ms Harrington moves that subsection 100o(5) of the act, as set out in section 8 of the bill, be struck out and the following substituted:

“(5) The minister shall determine the total rent increase that is justified and apportion the total rent increase in the manner set out in subsections 100f(2) to (6).”

Ms Harrington: Basically, we felt that this clarifies better than the original we had in the amendment.

The Chair: Any questions on the motion?

Mr Mahoney: Could I have a little further explanation of that? I am flipping back between subsection 100f(2) and just want to understand a little better what it is.

Ms Harrington: This amendment clarifies the intention that a rent increase justified on a replacement order will be apportioned in the same manner as one justified on an application under part VI-A, including the rules that the increase, which may be less than guideline, will be applied to the previous maximum rent and the new maximum rent will not be greater than that requested on the application.

The Chair: Questions?

Mr Mahoney: Well, there is a lot going on up there. I just—

Ms Parrish: I was just commenting that it is always very difficult to explain a drafting amendment. As you can see, the language here is almost identical to the previous one, and all it is really doing is referring very specifically to (2) to (6) in subsection 100f(1) because the other clauses really do not have anything to do with this section and so it creates some confusion as to how this would possibly work. It really is a sort of technical amendment just to make sure that people do not wonder how on earth (1) could ever have anything to do with this. It is always very difficult to explain drafting amendments, but that is essentially all we are trying to do. The policy or the intent has not changed at all; it is merely—

Mr Mahoney: So the concern about granting increases greater than what was asked for is part of it, is it?

Ms Parrish: Yes. An earlier section says you cannot get more than what you have asked for.

Mr Mahoney: Subsection 5 says that.

Ms Parrish: Yes.

Mr Mahoney: But I heard in the explanation of this amendment reference to that as well.

Ms Parrish: I think because that is a reference to what is in section 100f.

Mr Mahoney: Could you read it again, the amendment?

Ms Parrish: Sure.

Mr Mahoney: Because it did sound exactly the same to me.

Ms Parrish: Oh, the amendment? Okay.

Mr Mahoney: It is the same, only different.

Ms Harrington: What we have done is add on the end of it. Instead of just putting section 100f, we have put subsections 100f(2) to (6).

Ms Poole: So basically you have just eliminated subsection 100f(1) from consideration.

Ms Parrish: In terms of this reference, yes, because it is not relevant and it I guess creates some confusion as to how all—

The Chair: Legislative counsel may be able to help us. Can I ask for their assistance?

Ms Baldwin: The purpose of it really is not to eliminate subsection 100f(1). Subsection 100f(1) says do it, and we already have something here that says do it. I think the reason that the amendment was made was to make it clear that in saying that we want to follow the rules of apportionment in section 100f, we also want to make sure that we bring into those some of the limitations on those rules, as in subsection 5, where it says, “The minister shall not order a maximum rent for a rental unit greater than that proposed on an application.” It is just for greater certainty, to ensure that the other subsections of 100f, which by some mysterious way might not be interpreted to be apportionment itself, would be included.

1040

Mr Mahoney: So the application then would be for a certain increase and it would have to be the same right across the board.

Ms Baldwin: Yes, it is just ensuring that exactly the same rules as are set out in section 100f will apply here.

Mr Mahoney: What happens in a situation where there might be a requirement to increase a specific unit's rent because of—you know you cannot pass that through. I just answered my own question. Thank you.

The Chair: Any further questions on the amendment to subsection 100o(5)? Any further questions on the government's amendment?

Shall the amendment carry?

Motion agreed to.

Shall subsection 100o(5), as amended, carry? Carried.

Okay, we are at subsection 100o(6).

Ms Harrington: This subsection gives landlords the authority to continue to collect the rent increase set out in a potentially voided order until a replacement order is issued. I think it is basically to avoid confusion that until a replacement order is issued the existing order stands.

The Chair: Okay. Any questions on subsection 100o(6)? Shall this section of the act carry? Carried.

Subsection 100o(7), please.

Ms Poole: With permission of the committee members, I did have a question under subsection 100o(6).

The Chair: Yes, we can go back for a question.

Ms Poole: It should be very brief. Does this mean that if a landlord has an order which is going to be voided under Bill 4, the landlord can go ahead and charge that extra rent until such time that he or she receives the new order from the minister?

Ms Harrington: Yes.

Mr Mahoney: So it becomes retroactive.

Ms Poole: So it becomes retroactive, in effect.

Mr Mahoney: In favour of the landlord.

Ms Poole: I was wondering if this might not cause a great deal of confusion in tenants' minds, if they are being required to pay the additional rent by a landlord and they may think that Bill 4 did not affect them after all and then later they get the good news. In the meantime some of them may have moved or made other arrangements because they feel they could not continue to pay that rent. Will there be something sent out from rent review advising these tenants what their true situation is, that they must pay the amount only until a new order is made, or how will they find out that this is not their permanent situation, that there will be relief coming to them?

Ms Parrish: There was information sent to all of the landlords and tenants who were potentially caught by Bill 4, but of course the only information we could give them at that time was that, "You may be caught by Bill 4, but then Bill 4 may not pass in its current form." If the bill is passed, I think the intention is to try and reach the landlords and tenants who may be caught and point out, "Your case is a case that is affected by Bill 4 and therefore something will be happening." The problem is that in these cases where you are reissuing the orders you may not know exactly what the effect is. It is very simple if there is something that is not permitted at all by Bill 4. Then clearly there is nothing but the guideline. But in a lot of these orders there may be an amount for financing, there may be an amount for municipal taxes, and nobody knows what that is, so until we reissue the replacement order we are not in a position to say to the tenants, "Pay \$58 as opposed to \$78 as opposed to \$22." I guess the question is, which is the least painful transitional approach?

Ms Poole: But you do intend to advise the tenants and the landlords: "Under Bill 4, this change will affect you. However, until the new order is made you must continue under the old order." Is that correct, that you will make every attempt to do this?

Ms Parrish: Yes. There has been an attempt already, although, as I said, we have had to be very careful about what we say, because Bill 4 may not pass. So we have had to say to people: "You may be affected or you may not be affected. You should know that this is happening." When people ask us, we say: "Perhaps you should talk about it with your landlord and see if there is some accommoda-

tion that could be reached. If not, you have to continue to pay under your orders."

Ms Poole: And these would only be for orders that had a complex set of items in them? It would not be for orders where the full order was voided under Bill 4. These would only be orders where there was a mixture, where some were voided and some were not voided. Is that correct?

Ms Parrish: I think so. Just a second. I would like to just check that.

Ms Poole: I am sorry, Mr Chair, to bring this up after the section carried. I just am very concerned that tenants and landlords not be confused as to what should be paid when, and what the relief will be in the final analysis.

Ms Parrish: Yes. I believe that these are just, as you said, the sort of mixed-bag orders that have some things that are permitted and some things that are not permitted. I will have to go back and check section 100n, which we actually have not passed.

Ms Poole: I think you will make all our lives much easier as MPPs if, when that letter does go out, it is really clear as to what they have to pay, when, and what kind of relief would be coming once the new order came in, because otherwise our offices are going to be flooded with calls saying: "Help. What's happening here? I thought that under Bill 4 we didn't have to pay this."

Ms Parrish: We are making every effort to make that communication but, as you can appreciate, we cannot make a firm communication until we know what the ultimate disposition of the legislation is. But I will certainly pass that on to my colleagues in rent review services about the desirability of getting out quickly to landlords and tenants, to make them understand what the process is and what the period of potential delay is, because in some areas it may take a while to reissue the voided orders and therefore there may be some period of hiatus in which people decide what it is that they are going to have to pay in the end.

Ms Poole: That would be very helpful. Thank you.

Mr Mahoney: Does not subsection 100o(7) deal, at least without detail but just with this same issue, that the landlord would have to give back the difference on the new orders?

The Chair: We have not actually received an explanation yet for subsection 7.

Mr Mahoney: It is relevant to these questions because they are both very much tied together.

The Chair: Why not do them together? Is that what you are suggesting?

Mr Mahoney: I think they should be done together.

The Chair: Okay.

Ms Poole: I think the difference is, what I am talking about in subsection 6 is notification of the tenants and landlords and subsection 7 provides that there will be difference paid once the new order is in place. I am more concerned that all the parties concerned really understand what is happening.

The Chair: I agree. Since subsection 6 is carried, why do we not get the explanation to 7 and we will get right to subsection 7?

Ms Harrington: Subsection 100o(7): This subsection provides for the repayment of rent from the landlord to the tenant where a voided order is replaced with a new order. The landlord is required to pay an amount which is the difference in rent between what the tenant paid under the voided order and the amount that is payable under the replacement order. The replacement shall be made not more than 60 days after the date the order is issued.

Mr Mahoney: Will the landlord have some indication as to the amount that is likely to be voided? What I am concerned about here is if this takes a year to get through the system, which I would assume is entirely possible, there could be substantial amounts owing back to a large group of tenants. You might find yourself in a situation with a landlord who has either not budgeted for that or whatever, and a tenant could wind up in court over this, or having difficulty collecting could create a lot of acrimony, unnecessarily perhaps.

050

Ms Harrington: I am advised that because there is only a limited number of orders—I believe 194—this situation would certainly not be lengthy like that.

Mr Mahoney: Would it take a month to adjudicate? I know it is hard to pin that down, but could it be done in a matter of weeks rather than months?

Ms Parrish: I think there is quite a bit of sensitivity, that you do not want to prolong uncertainty in this area. As Ms Harrington said, there are relatively few orders and I think that every priority will be given to dealing with them because of the desirability of sorting it out. I am just not in a position, because I do not run that part of the operation, to say it will be a month or it will not be a month. I know that there is a lot of concern about getting the information out just as quickly as possible to those people who are in this situation.

Mr Mahoney: I think the ministry should consider this a priority frankly, to clean it up. One of the major criticisms, with some justification, of the RRR was the backlog and the slowdown that occurred where you had people paying rent increases for a year, waiting for answers, only to find out that it is contrary to what they had been doing or whatever. If there is one thing we should agree on in an all-party effort, it should be to try to streamline whatever system is put in place.

Ms Harrington: I certainly agree with you.

The Chair: Mr Tilson.

Mr Tilson: The latter part of that answers my question, Mr Chairman.

Ms Poole: One thing I am concerned about is that in an instance where there has been a considerable rent increase that would have been applicable if it were not for Bill 4, as I say, tenants might move or face eviction proceedings if they could not pay this amount. Is there any way we could include a clause—and I can appreciate this may be difficult to include—that would protect tenants

from eviction proceedings where they have been unable to pay a rent increase which would later be voided by a new order? Do you see that as feasible?

Ms Parrish: The problem is that in order to do that—I am not absolutely certain but I think that in order to do that we would have to amend the Landlord and Tenant Act, because of course evictions proceed under that statute, so I think it would be difficult to do that here. But one thing I would say, though, is frankly it takes you a long time to have eviction proceedings. It is very likely that these orders would be sorted out long before you ever got to court.

Ms Poole: I agree with you. The concern I face is that I have a large number of seniors in my particular riding, and I think all across Metro, who, when they receive an eviction notice from the landlord, are utterly panicked. They do not appreciate that this will take many months and by that time the new order would be through so they would not have to pay it. They will be very concerned that if they do not pay this large increase, even if they know they do not have to pay it in the final amount, if the landlord issues an eviction notice they will feel that this is a government order and that they will have to move out.

I have faced this before, trying to explain to them that: "Yes, this is an eviction notice but it's not a government order. You do have rights. This is the procedure. Don't panic; we'll get it sorted out." Unfortunately, not every tenant will happen to phone his MPP's office, and I do not want the situation to occur where you have people virtually moving because they feel that they will be evicted if they do not. I do not know if there is any solution.

Ms Parrish: There has been a letter that went to all tenants who are potentially affected by Bill 4, saying to them, "You may be affected by Bill 4," and that is as far as we can go yet. As soon as Bill 4 is passed, I know there is an intention to try and communicate directly with tenants and landlords who may be affected by replaced orders. That is probably about the best we can do. I guess the other thing is to make sure that all the MPPs know, so that if they get their cases coming in, they are dealt with. The problem is that the process of replacing one order with another is going to create a brief hiatus, and in the meantime landlords have the right to enforce their orders.

Many landlords may choose not to in the sense that it is just a bunch of paperwork for them. I mean, they issue this, they get this back, they give it back and so on. They may decide on their own volition not to go through that, which will be fairly irritating for them as well. But if they proceed under their existing rights, all we can do is give the best information we can to the landlords and tenants in the situation and hope that people are reasonable and that these problems can be worked out on an individual basis as quickly as possible.

Ms Poole: I can appreciate the position of the ministry. It is very difficult for you to give advice to a tenant about eviction proceedings when legally the landlord would be within his or her own right to proceed with an eviction notice. But perhaps if you even have some sensitivity to that particular problem when you are sending out the letter

to tenants, it will be so clear that they understand that relief is coming and not to panic.

Maybe you even want to put in a number where they can phone the Ministry of Housing. As you have pointed out, the eviction is covered under the Landlord and Tenant Act, which is actually the office of the Attorney General, but I know that rent review quite often gets landlord and tenant matters as opposed to rent review matters referred to it. There could even be a number on there where they can phone, or ask them to phone their MPP and make sure that the MPPs are very aware of the situation so that they can calm some of the people who are very concerned and say that it can be worked out.

Ms Harrington: If you know of individual cases maybe you could refer them to me. Okay?

Ms Poole: Certainly. I would be happy to.

Mr Turnbull: This issue raises a broader issue of the communication that the ministry is going to undertake to tenants. I am most concerned. As you are aware, there is the proposed challenge of the constitutionality of Bill 4. I think it is important that tenants be informed by the ministry that they should put the money aside for potential rental increases if Bill 4 is overturned at court. They will face significant amounts of back rent. It has been consistently the complaint of tenants that they felt that they did not have the money when retroactive orders were issued against them. In fact, it was that the order was retroactive; it was not that the notice was retroactive. The notice was always in advance. Here is an issue where landlords have legitimately gone out and spent the money and through a retroactive change in the law they are being told they cannot charge that back. Unless the ministry informs tenants that they should put this money aside they will face large retroactive increases in rent if Bill 4 is overturned, or at least if the retroactive aspects of Bill 4 are overturned in a court appeal.

Ms Harrington: Going back a couple of sections, we did say that tenants had to pay until the order was changed. So we understand that yes, we may as well have good news at the end of it instead of bad news. I can appreciate your point here, but there is no way we as a government can proceed assuming that the bill will be overturned.

Mr Turnbull: By the same token, if you want to protect tenants, which hopefully you do—certainly we want to—you have got to make sure that message is communicated.

Ms Harrington: I will just check with these people. Do you think that would be appropriate, Colleen?

1100

Ms Parrish: First of all, I do not think that you would issue information to the general public that was contingent. Normally when we give information we say, "Here is the law and the law says do this and do that and the other thing." We do not normally send out messages saying this would be the law, but somebody might challenge it or there might be a court ruling or there might be judicial review. We assume that the law is the law and that the normal rule is that which you have to do. I mean, the law

is valid unless it is overturned, and you have to enforce it in that way.

As well, even if the bill was overturned, which I think is unlikely, but if it did occur, I am not too sure that the effect you think it would have would be that, because there is a whole body of law that relates to what happens if there is a mistake of law as opposed to a mistake of a fact, and all these sorts of rules are there. So I am not sure that it would even have that impact.

Mr Turnbull: Well, Colleen, you will appreciate this is a very unusual situation. People have already spent the money. They have to have spent the money before they can apply under the existing legislation for rental increases with respect to capital costs. This reaches back a year in many cases, and as a consequence of Bill 4 it seeks to retroactively disallow the money that they have spent.

So this has some rather unusual aspects to this law that are not commonly prevalent, and surely we have to protect tenants as to the potential disruption of their lives. This could be thousands and thousands of dollars, and unless they are put on notice that this is a danger, you are not supporting the people you suggest are the people who are to benefit from this bill.

Ms Harrington: I certainly understand what you are saying, but I do not think it is directly relevant to this subsection 7.

Mr Turnbull: Well, it is all part and parcel of the communication.

Ms Harrington: Right.

Mr Turnbull: I understand that it is not directly relevant to it, but it is part and parcel of this communication process in that you are going to be communicating with tenants who have to pay this increase in the meantime and then it might be reduced and it seems to me that it is relevant to the process of communication. Presumably, we are not going to send out two different pieces of paper. I would hope that this would be a very simple, clear communication from the government that tenants can understand.

Ms Harrington: Just a final word here. We will not communicate with tenants that we think the bill is unconstitutional because we do not think it is.

Mr Turnbull: I am not suggesting that you communicate that you think it is unconstitutional, but surely, I am saying, in case the court overturns the retroactivity, there is a great danger to tenants.

Ms Harrington: I see your point.

Mr Turnbull: I feel it is appropriate in that section.

Mr Mahoney: I do not recall a situation ever in our term of office nor in the Tory term of office where a government undertook mass communications to one interest group or sector of society through direct mail such as this government has done with I believe a million-plus copies of the synopsis of the green paper being mailed out to all the tenants in the province. Normally in the past that has been done on a riding-by-riding basis, respecting the job and the responsibility of the individual member, regardless of which party was in power, to allow for somewhat of a balanced view. That is not what this government has done.

You have done a mass communication out, which in my view clearly has political connotations to a group.

What I am concerned about in relationship to the communication with the tenants that Mr Turnbull is referring to is that you have misled the tenants by making them believe through this communication that in some way Bill 4 does all kinds of wonderful, miraculous things for them when in reality we can see by these clauses and by the people who came before us—you will remember numerous cases where tenant groups came before us and I asked and others asked if there was anything in Bill 4 that helped them, other than the cap on the rent increase. You had to generally ask the question three or four times to get them to finally say, "Well, no, I guess you're right. There really isn't anything there that helps us."

But they are under the impression, many of them—and particularly the ones that concern me are not the activist groups that are generally NDP workers when they come in here because it has all been set up beforehand. The ones that concern me are the people living back in their apartments who really do not have any idea about the activist level of the presenters, etc, but are simply under the misguided information that this new government is bringing in this wonderful bill which is going to solve all of their problems with rent control.

If we accept the fact that there are problems with the RRRA—and I do; I said during the term of our government that there were problems, and we were trying to make amendments. I am very, very concerned.

For example, your minister is coming in here this afternoon, presumably to tell us his dictum on the 3,700 conditional orders. If he comes forward and says that on the 3,700 conditional orders, he is prepared to allow them, then there are going to be some real shock waves, in my view, go through the tenant associations, some real shock waves, because there are going to be some substantial rent increases that were approved. On the other hand, it would clearly be the fair thing to do, because they are conditional orders where money has been spent, and my impression is that he is going to come down somewhere on that side of it.

So I guess my point and concern, rather than a question as such, is that I am very concerned that there is manipulation to get the green paper introduced at the committee for one day and then jump back into clause-by-clause just for—the only reason for doing that was so that the green paper could be released officially at a committee and then mailed out to the million-plus supposed supporters of your party. So you are using the legislative system for political purposes, blatantly—

The Chair: Point of order by Mr Mammoliti.

Mr Mahoney: It is probably not, but let's hear it.

Mr Mammoliti: It probably is. I am having a hard time understanding what this is—

Mr Mahoney: I know, George. It is okay. I will talk slower.

Mr Mammoliti: I am going to ask the Speaker whether I could take a vacant office or something.

Mr Mahoney: That is an idea.

Mr Mammoliti: I am going to open up my own psychic shop, because I know exactly what they are all going to say and when they are going to say it. I do not know, it must be a talent that I have.

Mr Mahoney: I put a motion on the floor that Mr Mammoliti be granted a separate vacant office.

Mr Tilson: With no phone.

Ms Poole: Point of order, Mr Chair.

The Chair: I have not dealt with the first point of order yet.

Mr Mammoliti: Nevertheless, it has got nothing to do with subsection 7 and I would ask you to rule on it, please.

Ms Poole: Mr Chair, I would like to raise a point of order with reference to Mr Mammoliti's point of order.

The Chair: You want to speak on his point of order first?

Ms Poole: That is right.

The Chair: Okay. Then you have a different point of order.

Mr Mammoliti: I only have one.

Ms Poole: The point of order I would like to raise is that Mr Mammoliti—

The Chair: No, no. You are speaking on Mr Mammoliti's point of order. We must deal with one point of order at a time.

Ms Poole: Yes. I am dealing with Mr Mammoliti's point of order.

The Chair: Okay.

Ms Poole: Mr Mammoliti has made the statement that he knows what all of us are going to say before we say it.

Mr Mammoliti: It is getting to that point, yes.

Ms Poole: In my defence I would say that I doubt if Mr Mammoliti had any idea of what I was going to say. I have tried to pertain directly to the act, and so I take great offence at being told that I—

Mr Mammoliti: I am having a hard time understanding my feelings as well.

Ms Poole: You are having trouble discovering your own feelings?

Mr Mammoliti: Yes, I cannot understand how these powers are—I mean, it started through my gut. I told you that. It was a gut feeling at first.

Mr Mahoney: Maybe we better get a couch in that office.

Ms Poole: And a psychiatrist.

Mr Tilson: Okay, he can have a phone too.

The Chair: Order. Now that we have had a break in the proceedings, Mr Mahoney, you can continue.

Mr Mahoney: Thank you. I assume you are ruling that none of those points of order were particularly points of order.

The Chair: I did not hear a point of order.

Mr Mahoney: Right.

The Chair: I heard a lot of interesting things, but—

Mr Mahoney: This really points out the problem.

Mr Drainville: Is this a point of order?

Mr Mahoney: No, it is not. This really points out the problem, and—

Mr Mammoliti: What has this got to do with it?

1110

Mr Mahoney: It has got a lot to do with it. You cannot stretch your imagination beyond the simple word on the page in front of you.

The reality is that tenants are being misled, and tenants under subsection 7, and landlords, are going to find themselves in dispute somewhere down the road because somebody is going to be saying, "You've got to pay back this certain amount." The tenants are going to say, "Well, how long do I have to keep paying this disputed rent that is referred to in subsection 6?"

You have got void orders, you have got proceedings, you have got hearings going on, and you are not changing a thing in that regard. Yet you have held out that this document is the saviour for all the tenant groups that voted for the NDP and it is a reward for their loyalty. It is not a reward, and they will come to understand that and see that they have indeed been betrayed through this document, through the lack of substance that you have put in this document. So you see, it is very relevant to subsection 7, George.

Interjections.

Mr Mahoney: If you just use your imagination, and then imagine further the minister's pronouncements on the conditional orders.

There is some suspicion on this side of the room that perhaps the decision to revisit the conditional orders might have something to do with the legal opinion that might suggest that the bill would be in some jeopardy if that is not done. Maybe we are just being too cynical over here, but there has to be some justification, because as we have gone through this bill I have yet to see the government members or the parliamentary assistant or the minister agree to anything substantive put forward by the very hardworking critics of both parties in the form of amendments, except for perhaps some housekeeping items, and I am very hopeful that, even if it is a result of legal pressure, the minister will come to his senses this afternoon and tell us he is prepared to revisit the conditional orders scenario.

But what is that going to do for the tenants? You have mailed out a million documents, for political gain, no question. Mr Turnbull said 98% of them went in the garbage. We can only hope so, because it is clearly taking advantage of the political scenario and at the same time trying to convince them that you are the saviours of all the tenant problems.

So this is really a charade. If indeed there is a bending on the conditional orders, it will be because of fear that the bill will indeed be deemed unconstitutional. It may be the chink in the armour of the bill and the government on this particular area, and I am sure that is why the delay. I do not think it has got anything to do with wording or negotiating or phoning the 3,700 people. It has got to do with trying to nail down a legal opinion on the thing.

So subsections 7 and 6, as I said, very much go together and very much cloud the issue, and what you really should be doing is not necessarily, as Mr Turnbull has said, sending out a red flag to say this may be unconstitutional. I presume that you have got your legal opinions in place and you are comfortable with the constitutionality. That could be a very interesting court battle, but I presume you are confident, and if I were the government and I were confident, I would not send out a red flag.

But perhaps what you should do is start being honest with the tenants and tell them that all Bill 4 does is put a cap on the rent increases and it does not change a darn thing and they are going to have to continue paying on void orders and they are going to have to continue going through the same process that we have been through—

I am getting some directions here. Well, I know, I said that. It is not the full green paper. I am just being reminded that the full green paper was not sent, it is the synopsis of the green paper. I said that, and I understand that. It is still a mass mailing, absolutely unprecedented in the Legislature, in the Parliament, that I can go back and find anywhere, that a mass mailing of that nature for political gain was done. It is shameful and I think you are being extremely dishonest with the tenants.

Ms Harrington: I think the member started off by discussing subsection 7 and how it would not help the tenants and how it was complex and would lead to all kinds of problems.

From what I read, this is all that subsection 7 says: A landlord is required to pay an amount which is the difference between the rent that the tenant paid under the voided order and the amount that is payable under the replacement order. What we are saying is that we have new criteria for those amounts over the cap, and it is clearly stated what those amounts are, and it is obvious that we have to stop this process of that was happening under the RRRRA and this is the only way that it can be done. We are saying those criteria do not apply, these do, and whatever difference there was has to be paid back.

I do not think that it is that complex. I know what we have been going through in the last three days is a lot of words and a lot of legal jargon as well, but the impact of this is quite hopefully simple, that we have got to stop the process and we have got to start on a new process.

I would like to say that the work of the opposition, from what I have seen, is very good work. You have done a lot of discussion and writing—

Mr Mahoney: And losing.

Ms Harrington: —and I think it is to be commended. That is what an opposition is for.

With respect to your other reference to the rent control options, there is one sentence here that refers to Bill 4. It says the government has proposed a temporary law, Bill 4, intended to limit rent increases until a permanent rent control system is developed. That is all it says. The rest of it is saying these are all the options for the future, we want you to be involved.

I think that is a very fair thing for any government to do—to get this, which is a very readable and small docu-

ment, out to the people who are affected, namely, the tenants and the landlords, and say, "We want your advice, we want you to be involved." That is what we are doing and I think we are very proud of what we are doing.

Mr Mahoney: I am quite sure, Madam Parliamentary Assistant, that you are quite proud of it. The reason that his relates here is that we got on the subject of communicating the information. I think even you would agree that there will be some difficulties in the administration of 6 and 7, that there will be some disputes and some angst out here on the part of both landlords and tenants when this comes down and that it is not doing anything to solve or resolve that anxiety that will be created.

But I heard people coming before us all over the province saying their story out, and I heard a very similar speech to what Ms Harrington just gave about the wonderful work the opposition is doing. I heard all kinds of sympathy being expressed, and statements that you were going to listen.

But the reality is you are not listening and what indeed you are doing is mounting a massive political campaign of mailing out to 1.2 million tenants documentation that is misleading. It is particularly misleading when you get into the guts of the bill and you start talking about continuing to pay on voided orders and rebates back from landlords and time delays and disputes, and Lord knows how they are going to react with the conditional orders.

You guys must really be sitting on a hot seat here, because if the minister does what he has indicated he is going to do—and again I reiterate it would not be out of being kinder and gentler, but rather it would be out of fear of losing the bill in a court challenge—if that change occurs, then you are going to have to go back and mail out another million pieces to the folks, and you had better do it to all of them, because you cannot just do it to the 3,700 applicants here, and tell them: "Oh, well, Bill 4 was good but we've changed it. We're now going to allow those conditional orders."

It is right, you should do it, but you are misleading them by sending them out all of this information, what is nothing more than pure politics. I realize we are all politicians and that is fair, but you are spending the taxpayers' dollars in sending out millions of documents around the province when perhaps you should revisit that. Perhaps you should be dealing with the umbrella groups, rather than mailing them to all the householders, and stop wasting the taxpayer's dollar in doing that and start being honest with these people.

Bill 4 just simply puts a cap on it. It does not solve any problems. If you can miraculously come up with a housing policy that is acceptable to the tenants and landlords of this province in the next few months, then I wish you well, but you have really got a massive undertaking under this green paper to do that. Bill 4 has the potential to run for two years, as you well know, and you may find that the water will fill up the glass through the entire two-year process, causing further anxieties and delays.

120

Mr Tilson: With respect to subsections 6 and 7 and his payment by the landlord back to the tenants for

amounts that have been paid as a result of the retroactive legislation, that requirement appears to take effect the date of the order. My question is, since there are only 100 and something—

Interjection: There are 194.

Mr Tilson: —194 people, landlords, who are affected by this, would it not be more appropriate that that take effect after the landlord receives notice, as opposed to the date of the order? I mean, how are they going to know? We have had estimates that this order may take place a month from now, it may take place a year from now. What are they going to do, hear about it on the radio? Normally with these types of things a notice is sent to the landlord advising him of action that has been taken by a judicial or quasi-judicial officer.

Ms Harrington: What was your exact question?

Mr Mahoney: Radio ads will be next.

Mr Tilson: My question was, the date that these payments by the landlord back to the tenant, if necessary, appear to be made is not more than 60 days after the new order is made. My question to you is, how will they know that the order has been made?

Ms Parrish: The order will be given to the landlord and all the tenants who are on the face of the application.

Mr Tilson: Should there not be a section in the bill that requires the minister to provide that notice? How do we know it is going to be made? What if he forgets?

Ms Parrish: Well, we already incorporate all of the procedural elements under the existing act in an earlier section.

Mr Tilson: What section?

Ms Parrish: It is one of those sections that said all the procedures in section 75 apply—

Mr Tilson: How do I know it is going to apply to these two sections?

Ms Parrish: Because that is what the section says. Perhaps my colleague Christina Sokulsky can respond. She has found the section a little faster than I have. Perhaps she could read it to you.

Ms Sokulsky: If you turn to subsection 33(2) of the Residential Rent Regulation Act, it states:

"Where the minister makes an order under this act, the minister shall forthwith give a copy of the order to each of the parties to the application, or where the order is made on the minister's own motion, to each landlord and tenant directly affected by the order, together with a written summary in the prescribed form of reasons for the order."

So that is a requirement for the making of any order.

Mr Tilson: First of all, there is nothing in this bill that I can find that says that this applies, is there? Is there something that says that subsection 33(2) applies to this particular section? I do not see it. I mean, that is very fine and dandy, but so what?

Ms Sokulsky: Well, certainly I would like to call on Betsy Baldwin for assistance in this—

Mr Tilson: Sure, we will try them all.

Ms Sokulsky: —but it is my understanding that part VI-A is meant to be the complete code for increases on or after 1 October 1990 but does not exclude the application of the rest of the act, which would be section 33 and all the procedural provisions. Betsy, could you assist, please?

Mr Tilson: Where does it say that?

Ms Baldwin: I would agree with that. I do not think it is necessary to say it. As I read and understand it, part VI-A is replacement for part VI, but part VI or part VI-A, as the case may be, is part of an act, and there is nothing in the bill or anywhere else that would wipe out the other parts of the act. So they stand with part VI-A in the same sort of manner they stood with part VI.

Mr Tilson: What does forthwith mean? I am concerned about the limitation period that the landlord has to comply with this act, because if he does not comply with this act he is going to be fined. He is going to be fined substantially, or could be fined substantially.

Ms Baldwin: Yes. It is hard to come to a precise definition of forthwith. I understand you are a lawyer and you probably know that.

Mr Tilson: No, I do not.

Ms Baldwin: It means right away, and my assumption would be that in the context, given that there is a 60-day period there, it would certainly be expected to be long before that 60-day period is over. I would assume that is so.

Mr Tilson: Forthwith could be 30 days.

Ms Baldwin: Excuse me?

Mr Tilson: Forthwith could be two weeks.

The Chair: For the rest of us who are not lawyers, could you tell us what forthwith does mean?

Mr Tilson: I do not know. That is why I am asking the question. I am concerned about the time frame that the landlord must return these moneys and it says 60 days, not more than 60 days from the date of the order. Now we are talking about the minister assuming that section 33 does apply and it talks about "shall forthwith give a copy of the order." What is the penalty if he does not do it? Is it \$25,000?

The Chair: So your point is that the forthwith and the 60 days are not the same? Is that the point you are making?

Mr Tilson: Because of the time frame that is allowed for the landlord to do this—we could be talking a substantial amount of money. For example, if we have a large block of apartment buildings and one landlord, and if it is a corporate landlord, my understanding is that there could be a substantial fine if that is not returned. So it is very crucial as to the amount of time that the landlord has to return these moneys.

Ms Parrish: The normal procedure that is carried on in the rent review services office is as follows: The date of the order is the day that they mail the order. So they date the order and then it is mailed that day. If they do not think that they are going to be able to mail it that day because it is the end of the day or whatever, they date it for the next day. So it is dated and mailed on the same day, and of course the normal rules of service are that you are assumed

to have received that within five days, which would be the maximum period. As well, I understand that if people have a fax number or whatever, it is quite a common practice to simply fax it out, especially of a landlord has requested that. So the normal course would be that it would be within five days or less because it is mailed on the day it is made, and that rule is the rule that is practised throughout the province.

Mr Tilson: That is a whole other story. There does not appear to be a specific rule then, or regulation, as to when it is to be mailed. You say, "Well, normally it is." Maybe it is abnormal. Maybe this is a new government. I mean, maybe it is going to be mailed on that day, maybe it will be mailed on the next day, maybe it will be mailed two weeks later.

Mr Chairman, you asked me what the definition of forthwith is without judicial research on that and that is not my job. It is for these three lawyers around here to do that. My speculation is it could be some considerable period of time, depending on the circumstances. It could be a week, it could be two weeks, all of which would then cut down on the amount of time that the landlord has to find this money and return it back to the tenants, and I think that is unfair.

So my suggestion to the ministry officials is that a more appropriate time would be that this would take effect, rather than not more than 60 days after the new order is made, perhaps tie it in to when the notice is sent. I mean, maybe the notice will be sent out on the day it is made, maybe it will not. You do not know. You are saying normally that is the procedure, but maybe it is, maybe it is not. Surely this government is not going to run on maybes. Would you comment on that, please?

Ms Parrish: I am sorry, sir, are you speaking to me or to Ms Harrington?

Mr Tilson: Yes, I am.

Ms Parrish: My understanding is that they always mail it on the day they make it and that is always how they do it. They sometimes also fax it.

With respect, I cannot think of a single reason, what incentive there would be to delay the period, because of course the desire would be to get the money to the tenants, so there is not really any—I cannot think of why people would deliberately want to delay the orders, because of course they want the landlords and tenants to sort this out. So there is no reason not to follow the usual practice.

1130

Mr Tilson: All I know is I am a new member, I write letters to the ministers in this particular government and it takes sometimes two to three months for them to answer. Bureaucracy is bureaucracy, and it is fine and dandy for you to say all that, but if you were in that particular position—and maybe you will receive the order and maybe you will not. Maybe it will take 60 days.

Again, I am trying to ask you whether you think it would be more appropriate that the time this limitation period applies would be tied in to when the notice is sent out—five days after the notice is sent out. If it is done on the very first day, great; if it is done on the second day,

great; if it is done two weeks later, great. Would that not be more appropriate to put in as an amendment?

Ms Harrington: The date that the order is, you are saying, received by the landlord?

Mr Tilson: Or X number of days after it is sent out. There is nothing—this section that has been referred to me says, "The minister shall forthwith give a copy of the order to the parties." Well, again, I do not know what forthwith is. I suspect it is not defined anywhere in the act.

Ms Harrington: In subsection 7 it says the repayment shall be made not more than 60 days after the date the order is issued. We have heard that the date it is issued is the day it is mailed, so you are concerned about the five days that are minused from the 60 days?

Mr Tilson: Or two weeks. Forthwith could be two weeks.

Ms Harrington: You are saying he is not going to send it out until forthwith, which is, you are saying, two weeks?

Mr Tilson: I do not know. You do not either.

Ms Harrington: Well, we have just finished hearing from the ministry that the very date that the order is issued is the date it is sent out.

Mr Drainville: Forthwith means immediately, not two weeks.

Mr Tilson: Yes.

Ms Harrington: We have a definition of forthwith, which is the same date.

Mr Tilson: Where is it? It is from her.

Ms Harrington: That is right.

Mr Tilson: That should be gone—well, I say that with due—

Mr Mammoliti: Point of order, Mr Chairman.

Ms Harrington: I think we really have exhausted this topic.

The Chair: We have a point of order on the floor.

Mr Mammoliti: I take exception to the remarks. What he is doing is he is actually cutting up the person from the ministry, Colleen. This is ridiculous. If this is the sort of thing that he is going to be doing, then—I am sorry, you have to rule on this.

The Chair: I rule on every point of order, Mr Mammoliti.

Mr Mammoliti: I know, always against me.

Mr Mahoney: We would just like to get one for a change.

The Chair: I would just say that, yes, it has been the tradition in committees for members of the assembly to target their most difficult and political attacks towards elected officials and, yes, staff is treated somewhat differently. I want to remind all committee members of that, and staff do not make political comments, from the experience that I have had around here, and we should not expect them to.

Furthermore, when the comment was made that maybe Colleen would not be here, some of us who have been

around here for a while know that staff get promoted and they go to other ministries. I did not really myself take that as a personal attack against Colleen but it could have been interpreted that way, and because it could have been—

Mr Tilson: Mr Chairman, to save you from going on, I certainly did not intend it to be a personal remark against Colleen, and if it was interpreted like that, I apologize.

The intent of my comment that was made is that staff making a comment at this particular meeting as to what a particular procedure is, whether it is oral or something else, that particular staff person—and again I am not referring to Colleen specifically—may or may not be here two weeks from now. In other words, staff could move on to other positions, and I do not think that we should be relying on oral statements in something as important as this.

As to procedures, normally procedures are set forth in statutes or they are set forth in the regulations—

The Chair: Order. That is not part of the point of order. We acknowledge that the point of order was in fact made appropriately by Mr Mammoliti and I have cautioned all members and reminded them of some of the traditions that we have used around committees in the Legislature successfully. I believe your apology and your withdrawal have been accepted and we understand why those comments were made, Mr Tilson. But again I caution all members, and unless there are further questions on the point of order which I have already dealt with, I think we should return to the bill.

Ms Poole: I just want to make one comment, Mr Chair. I think we have been particularly fortunate with the calibre and the quality and the knowledge of the ministry staff who have attended these hearings. They are very seldom at a loss, they are experts in this particular area and I do not think—I do not believe that Mr Tilson did mean that to be the question in point. I think he was referring to the fact that the elected members, and particularly the minister, make the policy statements and the staff's position is that it is their job is to carry them out. So I think if all members keep that in mind, that these are not decisions made by staff, they are merely doing the best to their ability to try to carry out the wishes of the minister, maybe this would help us all to proceed.

The Chair: Right. As I said in my ruling, it could have been interpreted that way, and I think Mr Tilson acknowledged that.

Mr Drainville: Just a small comment on that point, and that would be that I was not objecting to the fact—I understood what Mr Tilson was saying—but over the period of the last little while as Mr Tilson has been speaking, he has been getting—perhaps because he is trying to make a point politically—more and more aggressive in some of his expectations of responses from that end and it just would be helpful if perhaps people would just settle down a bit and be a little bit more open to reasoned discourse.

Mr Mahoney: I feel better already.

Mr Tilson: That makes it all worth while.

Mr Mahoney: We have just been blessed.

Mr Drainville: I would like to say on a point of information that forthwith means immediately, and all one needs—

The Chair: That is not part of the point of order that was raised by Mr Mammoliti.

Mr Drainville: That is fine. Then I will ask for a point of—I would like to give some information to the committee that it obviously needs in this situation, Mr Chair. You need it, God knows.

The Chair: Well, then, first of all I believe I have dealt with Mr Mammoliti's point of order. Is there another, or a new point of order on the floor?

Mr Drainville: It is a point of information, Mr Chair, a point of personal privilege—how shall we try this?

The Chair: As the Speaker says so often in the House, all members try this, but anyway, go ahead.

Mr Drainville: All I am trying to say is that dictionary-wise it is clear forthwith means immediately and it is absolutely clear. You do not need a thousand lawyers to figure that out. That is precisely what it means. You need only go to the Oxford English dictionary to find that out.

The Chair: That is a point of information; it is well taken. Thank you.

Does the committee wish to proceed?

Ms Poole: I would just like to say on Mr Drainville's point of information that it is refreshing to see that members of the government have a voice. We have been—

The Chair: Order, please.

Ms Poole: —bereft of hearing from them, and it is nice to see that they are going to—

The Chair: Order, please. Thank you. We were discussing subsection 100o(7). Mr Tilson has the floor.

Mr Tilson: I wonder if I could carry on with my question.

The Chair: Yes.

Mr Tilson: My question is to Mrs Harrington perhaps as to whether or not she would agree that this subsection should be amended to read that the landlord should return the moneys that have been collected 60 days after the notice has been sent as opposed to 60 days after the order has been made.

Ms Harrington: I think it is a very fine point. What we have said clearly in this statement is that the date the order is issued is the date it is sent.

Mr Tilson: Thank you for saying it is a fine point, but I will not—I have no further questions, Mr Chair. I feel that the section is vague and I gather that the government side is saying it is not necessary.

Ms Harrington: One further comment: The policy of what actually happens in all the different offices or the ministries about dealing with correspondence, I do not believe that it should be stated exactly in the bill. That kind of policy is obviously very important and it is policy probably within the ministry as to how orders are dealt with. As Colleen has pointed out, it sounds like a rather strict policy, but whether or not it should be incorporated in the wording of the bill is something altogether different. If that

were so, we would have to affect a lot of bills, so it may be inappropriate.

1140

Mr Tilson: It may well be the appropriate amendment should be to subsection 33(2), if that is the case. If you are trying to improve our legislation, our housing legislation as you have continually said that you are, maybe that would be a more appropriate. You have made a number of fine points in technical amendments that you have been making as recently as this morning, fine points. I do not know what you are implying there but you yourself have been making fine points, and I would think that if you are sincere in improving the quality of the legislation perhaps you should be making an amendment to subsection 33(2) of the Residential Rent Regulation Act.

Ms Harrington: I think what you are asking for is that our communication be as direct and as speedy as possible.

Mr Tilson: Yes.

Ms Harrington: Certainly that would have to apply to many things, including this, and your advice is well taken.

Mr Tilson: We are agreeing on that. In light of that would you, as the spokesperson for the government members of this committee, be prepared to consent to an amendment to subsection 33(2) amending the notice requirements; in other words, specifically directing the minister—

The Chair: Excuse me, Mr Tilson. You are talking about section 33(2) of the act?

Mr Tilson: I am doing that because the staff had indicated in answer to my question on notice for subsection 7 that I should look at subsection 33(2).

The Chair: I do not think that is in order, Mr Tilson. I understand what you want to do but I do not think that is in order at the present time. I think if we are going to talk about amendments, we have to talk about Bill 4 and 100o(7).

Mr Tilson: Then, in light of that ruling, my question is specifically to subsection 7, as to whether or not you would consent to an amendment to subsection 7 being more specific as to when the 60 days would commence?

Ms Harrington: No, not at this time.

Mr Tilson: At a later time?

Ms Harrington: As you know, this is temporary legislation and all aspects of rent control are up for discussion.

Mr Tilson: But this specific subsection deals with the interim legislation.

Ms Harrington: That is right, and we feel that what we have put forward is quite adequate.

Mr Tilson: When you say, "Not at this time," would you think about it and perhaps consider it tomorrow?

Ms Harrington: No, I am saying that very soon the discussion paper is going to be discussed and the long-term legislation is going to be—

Mr Tilson: But this is the transition order section, between the old and the new. The new legislation will have nothing to do with this. So would you consider it tomorrow? Would you have your—

Ms Harrington: No, we do not think that is necessary.

Mr Turnbull: We have heard staff suggesting that it is normally mailed out the same day. Given that fact, I am surprised that we find the government fighting against the simple amendment that my colleague is suggesting. If it is mailed out the same day, then 60 days from that date is not going to change or gut the legislation in any way. It clarifies it. When we asked legislative counsel, they were not quite sure of a definition of the immediacy of this term. Why are we arguing? If we have got a clearer definition, and you agree that normally it is mailed out the same day, why are you arguing with us? It seems that you feel unsure of yourself by making this change. This only serves to clarify.

Ms Harrington: The staff would like to respond to this.

Ms Parrish: The basic reason I think we do not favour this as a procedural change is that it does not clarify or simplify; it makes it more complicated. Everything else in this bill says that the date or the period runs from when the order is made—everything else—so if we change it in one place then everybody has to remember, “Here is the rule, except here.”

In addition, when you issue the order you then have to say to people, “Here is the date of the order.” For example, that might tell you something about when the first effective date is, because that will run from when your date is ordered. Then we are going to say, “When was it sent?” which is also an unknowable thing in the sense that I can say it was sent but that may not really have that much relevance, because it is not when you received it, it is when you sent it. I could put on the order, “I made the order on Tuesday and I sent it on Wednesday,” or “I sent it on Tuesday.” That may or may not be, in the sense that I could write, “I sent it,” and then in fact somebody might not actually put it in the mail that very day. So with respect, I do not think that it improves the clarity; it just creates a little anomaly in the middle of the act, in which everything else is different.

The other thing is that it does not give you that certainty. I can understand the concern that you want to have some certainty, but it does not help you, because all it does is say, “Tell me the date you sent it.” Then the order will say, “This is the date of the order and this is the date when we sent the order,” so now you have got two pieces of information. I understand the basic procedure that is in place is that you send the order on the day that you make the order and every effort is made to ensure that is the case. I have tried to be quite honest and say that I am sure there are the occasional times when it does not get in the mail until the next day, but the way the system works is they have a system of making sure that orders are sent on the day and, with respect, I do not think that it would make it simpler to add this minor change that does not occur in the rest of the bill.

Mr Turnbull: With respect, Mrs Harrington, I have to say that the ministry does not have a shining record in terms of being expeditious with the whole of the rent legislation. We have heard both tenants and landlords complaining about this and we are asking for a simple clarification. Two rights do not make a wrong. I still stand by what I have said, that it would seem reasonable to add this, and if you are not prepared to make this fine point, I really wonder why we are going through all of this charade. We are

trying to affect legislation positively and it seems like a very simple, very reasonable clarification we are offering. If you do not accept it—we know that you have got enough votes to overturn it is what we are saying. Why bother having committee meetings?

Mr Tilson: We have a new face. The comment was made by your predecessor—it makes me come back to George’s point of order. However, in any event, I will not get into that again.

Mr Mahoney: See, you were right: She is gone.

Mr Tilson: That is right.

Mr Mammoliti: I will just call another point of order.

Mr Tilson: It does make my point, but again, I guess the comment that was made by your predecessor, who misunderstood my thoughts, is that the 60 days starts, according to subsection 7, 60 days after the new order is made, and we are assured, by your predecessor at least, that this would go out immediately. You say that whether this is a correct assumption or whether it is not, it would create too many problems throughout the act. Would it not be therefore appropriate to make an amendment to subsection 33(2) which would clarify all of those problems throughout the act? My question is to—I do not know this person’s name, Mr Chairman.

Mr Cunningham: It is Karl Cunningham.

Ms Harrington: We are not looking at the act right now; we are trying to get through Bill 4.

Mr Tilson: I know that.

Ms Harrington: To go back and make an amendment to the act certainly may be a good idea, but we are having enough trouble trying to get through this right now.

Mr Tilson: The reason I asked that question was in response to the question made by Delores—Delores?

Mr Cunningham: Colleen.

Mr Tilson: Whoever used to be there.

Mr Cunningham: Colleen.

Mr Mahoney: I’ll never forget what’s-her-name.

Mr Tilson: I am not going to make any more comments for fear George will rule me out of order.

The reason I made that comment was because of her remark that if this particular subsection was changed you would have to change the whole act, and I do feel it is relevant because that could be done by amending subsection 33(2). Mr Cunningham?

Mr Cunningham: With reference to what Colleen had said, I think what she was saying was that it would create some confusion in the sense that there would be one part of the act that creates an additional rule other than the rest of the bill.

Mr Tilson: But therefore we could simply amend subsection 33(2). That would solve it.

Ms Harrington: As I tried to explain, it is not part of the bill. I do not have a lot of legislative history here, but I do not think that we can go back to do the act at this point. I appreciate what you are trying to do.

Mr Tilson: It does not appear I am going to get anywhere on this—

Ms Harrington: That is right.

Mr Tilson: —so I will withdraw my question.

The Acting Chair (Mr. Abel): Anybody else? No further comments on subsections 100o(6) and (7)?

Mr Drainville: I was wondering, Mr Chair, whether we could have a recess now and perhaps convene again at 2 o'clock.

Ms Harrington: Would it not be possible we could finish this, do this anyway and—

Mr Mahoney: I think it is a good idea. I am with you, Rev.

Mr Drainville: You are with me, are you? I had better change my mind.

Mr Mahoney: Rethink your position.

Mr Drainville: As soon as I see Steve Mahoney. I will rescind that, Mr Chair.

Ms Harrington: I just felt that we had pretty well discussed this section and that it might be good to finalize it.

Mr Drainville: That is fine. Boy, that was close.

The Acting Chair: We are dealing with subsections 100o(6) and (7). What is the wish of the committee?

Interjections: Carried.

The Acting Chair: Should all of section 100o, as amended, carry? Carried.

I think rather than get into the next one, 100p, I would recommend that we adjourn until 2 o'clock.

The committee recessed at 1154.

AFTERNOON SITTING

The committee resumed at 1417.

The Vice-Chair: Good afternoon. This afternoon we are fortunate to have the minister with us. Therefore, if it is the wish of the committee, we will go back to subsection 100e(2). We had stood this section down. It relates to conditional orders and I am sure members have some things to say about it.

Section 8:

Ms Poole: I do not know whether the minister would prefer to make opening comments on this before I spoke to a possible amendment.

The Vice-Chair: Mrs Poole.

Ms Poole: The conditional orders issue is one that I think has given members from all parties a lot of difficulties. The situation of the conditional orders is that the landlord went to rent review with a proposal for a rent increase and asked rent review to make a decision and give an order on what would be allowed if he met certain conditions. In these particular instances, an order called a conditional order arose from those situations whereby rent review basically said, "If you fulfil these conditions, then we will give you this rent increase." I think it is probably as close to a guarantee as you are ever going to get in legislation, and that is a major differentiating point between this and other retroactive situations.

The people who were in this situation are usually your more cautious landlords. A number of them are the smaller landlords who knew they would be in financial jeopardy if they did not have a rent increase to cover the costs.

I have discussed with the minister the possibility of having an exemption on the conditional orders from Bill 4. There were several difficulties that the minister presented to me.

The first is that if the government were to reconsider conditional orders in Bill 4, it would only be willing to look at situations where the work had actually been done and the money expended. They were reluctant to consider conditional orders where the landlord had not gone ahead, had not lost anything and basically the status quo was preserved. I really do not have any difficulty with that particular part.

The second thing is that there were a couple of conditional orders in particular that were quite high. The rent increases resulting from those conditional orders would be quite high is a better way to phrase it. I believe the minister said there was one for 192% and another one at I believe 157%, or a couple of quite high ones, and another one not quite as high but considerable was in the area of 45%.

So the workable compromise seemed to be that there be a cap on the conditional orders. We discussed a number of possibilities. I would have probably preferred to look at a cap in the vicinity of 20%, simply because this would cover most of the conditional orders that are in question. The minister has indicated to me that the government would have difficulty living with a cap quite that high and I think the proposal has been a 15% cap.

There is one difficulty in that legislative counsel has not had sufficient time to really draft the appropriate amendments, so the minister has suggested that we debate the principle of it at this time and come up with some directions for legislative counsel for the final wording and they would come back to us tomorrow morning with the appropriate amendments.

Minister, did you want to add any comments to that?

Hon Mr Cooke: I might want to hear from Mr Tilson and then see.

Mr Tilson: I was not party to any of these discussions. It is the first I have heard of what you are saying. You two have obviously had time to assess things. In light of that, if you are putting forth some sort of proposal at this time, I think that we should have a chance to review it.

Hon Mr Cooke: I think Ms Poole is correct in saying that while legislative counsel has an amendment prepared, they would like to have a little more time to make sure that it is absolutely correct so that we do not end up doing something or discussing something this afternoon, amending the legislation and then having to come back to it.

Obviously, the discussions between Ms Poole and myself made clear that that would happen because of the amendment that was put forward by the Liberal Party last week and the requests that I had to stand down the section while we better examined the situation.

Mr Tilson: I guess my question is, with that 15% figure, how many of the conditional orders will still be left out?

Hon Mr Cooke: We are attempting to do an analysis as best we can, but one thing that I have certainly discovered over the last few months is that not all of the data we would all like are available. Even some of the rent increases under conditional orders that we have looked at, it has been pointed out that the figures we have may not be the real figures. But I think it is safe to say that many of the individuals who have applied under conditional orders and been approved for the first step will receive significant assistance by the 15%.

We do not know exactly how many of the landlords have actually completed their work. We tried to do a bit of work on that today to see how many buildings have applied for whole-building reviews after their work has been completed, and at this point we have found a couple but we still have work to do on that.

But I think it is safe to say, looking at the numbers we have, that most, not all, of the individuals who have applied for conditional orders will be helped with the 15%.

Mr Tilson: I guess my concern is that there is one mentioned of 192%. Was that the figure?

Hon Mr Cooke: But that has been disputed as well.

Mr Tilson: All right, let's say it is 100%. I do not know. Let's just take something. It may well be that under the circumstances—you see, I do not know the circumstances of that particular one, or a high one. You may or may not. But it may well be that if there was a low rent at the outset, an extremely low rent, \$50 a month—let's take

something unbelievable—that that may not be such a bad increase. And I suppose that if we are looking at the fairness, if one is acknowledging that the conditional orders are fair—some are fair, some are not—then how do we arrive at where they are not fair?

My position would be that many of these people who have been coming to the hearings have received not only the approval of the government but the approval of the tenants. I do not know how many situations like that are over 15%. So I think to be fair to everyone, including the tenants who have agreed to some of these increases, we need more information before we arbitrarily pick a figure out of the hat.

Hon Mr Cooke: I can tell you that the one figure, the 195%, originally, from the data that we saw, it was 195% with a base rent of \$1,000 a month, which would have put the rent close to \$3,000 a month. But the information that—and this is the problem with some of the data we have. It would appear that that one has already gone through the system and that the end rent was \$1,000 and that is already what is being charged, so that order will not be affected at all because it is already in effect. So when you eliminate that one and a possible other one at Crawford Street, they are all in the range of anywhere from 15% to 22%, with the exception of a couple.

Mr Tilson: If this proposed further amendment affects all but a couple, then I think that, to be fair to those two or three, we should look at those. It may well be that if there are only two or three, maybe the entire conditional order amendment should be deleted. But I am saying this because you two have had a chance to talk about it. I do not know all the information and I think the committee would be interested in hearing all of that information as well.

Hon Mr Cooke: I understand, Mr Tilson, and I certainly apologize if we have done anything incorrect in terms of consulting with you. Ms Poole has called me a couple of times and that is when we have talked about it.

What I am suggesting to you is that this has been an extremely difficult issue for me personally to deal with. I agree that conditional orders are something different from some of the other issues that we have been dealing with, and I have attempted in the last weeks since this came up to try—and quite frankly, in a non-political way, because if I was dealing with this strictly in a political way, we would not be discussing an amendment. But I feel that in searching for an attempt to deal fairly with the conditional order issue, which is the one issue that has given me personally, my conscience, the most difficulty, I am coming to you with what I consider, after searching myself and discussing with people in the ministry, as an option, as an amendment, what I think will work and is fair.

I personally have to look at the other side of the fence as well, and the other side is that we entered into this exercise with an attempt to offer better protection for tenants, and some of the rent increases I cannot live with. I can live with 15%. It is going to cause some difficulty. There is no doubt at all that it is going to cause some difficulty. There are going to be some people who are not going to be adequately assisted. I understand that. There are going to

be some tenants who are hurt. But I think that this is fair under the circumstances. I am not prepared, because I do not think it would be fair, to go any further than the 15%.

1430

I know that these hearings and discussions in committee have focused on some difficulties that some landlords are having. I also am aware of difficulties that tenants have had over the last few years under what I consider to be some difficult aspects and unfair aspects of Bill 51.

You have a particular point of view, and you might be right. I have a particular point of view; I happen to think I am right. One thing I certainly have learned, being in the Legislature for nearly 14 years, is that nothing in this place is black and white. I understand that very clearly, and God knows, rent regulation is not black and white, but I cannot live with anything more than 15%.

I know that there have been landlords who have appeared before this committee and have had tears. I know that happened also a few years ago with Mr Curling's legislation.

But I have been at enough meetings of tenants across this province, and some in my own riding, one meeting in particular that I will never in my life forget, of the Shoreline Towers tenants in my riding, all senior citizens, a former limited dividend building. A new owner comes in and applies for a 60% rent increase. The vast majority of the tenants in that building are on the basic income of old age pension and supplements. They come in for a 60% rent increase, and those tenants were not going to be able to survive. The majority of the tenants would have had to move out of that building. There were tenants who they had to set up a group of tenants to look after in that building, because there were great concerns that some of the seniors were spending too much time on their balconies. They were afraid that some people had become so desperate and so upset that they were going to do something to themselves because of fear of being economically evicted.

Bill 4, you may think, and you obviously have made your point of view very clear, is wrong. Those tenants are protected by Bill 4 in my riding. They are not going to be economically evicted, and I think that there is some good. We may disagree fundamentally about rent regulation, but in that case, that is one example, and there are others in the province, where there is some protection.

So I searched my soul in the last week to see on the conditional orders what was fair and what has not been fair, and I have come up with the compromise, in discussing the matter with the Liberal Housing critic, of 15%. If it is not acceptable to the committee, then it is not acceptable to the committee, but if Ms Poole is going to move that amendment, I certainly would encourage the members of the committee to support it.

Mr Tilson: If Ms Poole does not move the amendment, I hope that the government side will. Obviously this whole issue of conditional orders has been a major concern of the Progressive Conservative Party since the introduction of the bill, and I think that what is coming up now of course is an acknowledgement that doing away with conditional orders was not a fair and equitable procedure to

follow. That is exactly the position that our party has taken and continues to take, and of course we welcome any move to reinstate the conditional orders that have been taken away and any move to implement that.

But at the same time, Minister, if we are looking at the fairness that you have referred to in your brief comments, one has to look as to whether or not there is discrimination. In other words, does one arbitrarily pick the figure 15? If there are two people left over, why are we discriminating against those two people by passing legislation? I mean, aside from any legal implications, if we are discriminating against two individuals, why are we discriminating against them? It may be that 16% covers them, maybe 20%.

So again, I think that our party, and I would imagine—they should speak for themselves, of course—that the Liberal Party would be looking for that information as well, and I would hope that all members of the committee would, before we agree to any form of an amendment, whether it be a Liberal amendment or whether it be a government amendment.

So I welcome any effort to reinstate the conditional orders, but I must insist that this committee be advised of what conditional orders are still being deleted and why they are being deleted. That is a question.

Hon Mr Cooke: We will get as much information as we can. We know that we have 16 who applied before 28 November. They had their conditional orders. The work apparently had been completed and they had applied before 28 November, and we have had two apply after 28 November, so we had 18 whole-building reviews that were conditional orders before that. We will try to get some more analysis for you, but I am telling you from the information that I have, the range is from 12% to, well, 50%, if I am eliminating the 210% and the 195% on the two buildings on Crawford.

Mr Tilson: I think that if that information is not available now, specific information as to numbers of individuals who will still have been granted conditional orders and will still be invalidated should be made available before we deal with any amendment on this section. Obviously I do not want the minister to say, "Well, take 15% or you're not going to get anything at all." I hope he is not saying that. I simply am asking for more information before we make such a decision.

Hon Mr Cooke: And I am telling you that I am giving all of the information that we have been able to assemble. We do not have all of the information that we would like. I tried to get as much information as I could to analyse it over the last few days.

There are 16 applications prior to 28 November and two since. We knew that there were 37 conditional orders, but obviously the balance of them—the 19, the difference between 37 and 18—have not applied. We can only assume that since they still have not applied and we are almost into March and they had their conditional orders last year, they have not done the work.

Mr Tilson: I think, though, that surely since there is such a small number, I do not want people of this province to say that this committee or the province of Ontario is

discriminating against a particular group of people unless we have got very good reason to. We just cannot unilaterally or in some cavalier fashion pick a figure knowing full well that we are discriminating against individuals.

Hon Mr Cooke: The difficulty that I have with your proposal is that you come at it from a completely different perspective than I come at it from. You come at it from the point of view that all of the conditional orders should be passed through as they are.

Mr Tilson: Yes, I do.

Hon Mr Cooke: Well, and I do not. I come at it from the point of view that some of the conditional orders that were done under Bill 51 are unfair and do not offer adequate protection for tenants. So the 15% figure is a balancing act, one that I believe offers protection for tenants as much as possible and offers some fairness for landlords. I want to find a balance between the two. You want to come down entirely on the landlord's side. I want to come down to try to offer some balance. That is the difference and that is the point. I guess that is the one thing in this case, at least on Bill 4, that Ms Poole and I have had in common. We may not agree on the final figure, but that is the one thing that we have been trying to find.

Mr Tilson: My question—

Hon Mr Cooke: So you look at the one set of victims, as you would describe them. I have to look at the people who live in those buildings who would not be able to cope too well with 50% rent increases.

Mr Tilson: All I am trying to do is to avoid bankruptcies in this province. Every little effort—

Hon Mr Cooke: What about the personal bankruptcies of the tenants?

Mr Tilson: Every little effort that we can do to accomplish that, the better.

I honestly believe that I would like to know the rationale as to what you feel is fair and what is unfair. We now have two categories created by this proposal. One group of conditional orders is fair and the other group is not fair. Could you provide me with your rationale as to which conditional orders will not be validated? Those presumably are unfair. Can you tell us how you have arrived at that rationale?

1440

Hon Mr Cooke: I can indicate to you that I do not know what you mean about some being validated and some not being validated. As I understand Ms Poole's suggestion, which I concur with, all of the conditional orders will go through the system. There will be a cap on what will be passed through.

Mr Tilson: If you are telling me that all of the conditional orders that have been granted will be validated, I will concur with that, in which case there is no need to have a percentage figure put.

Hon Mr Cooke: I said there is a cap.

Mr Tilson: But if you are telling me now that all of the conditional orders will be validated, then why even have a cap?

Hon Mr Cooke: Because I am interested in protecting tenants.

Mr Tilson: Of course you are, and some you are and some you are not, it would appear. That is fine. I do not know how you arrive at that as to which tenants you are going to protect and which tenants you are not. I am just trying to avoid discrimination by this government, and I feel that you are discriminating against certain individuals. If you are telling me that you are not, then let's just simply take away the conditional order section.

Hon Mr Cooke: I am not prepared to do that. I am prepared to accept the amendment that Ms Poole has suggested.

Mr Tilson: One final question: Why is 20% not acceptable and 15% acceptable?

Hon Mr Cooke: And then I guess the question is, why is 20% acceptable for you and not 15%?

Mr Tilson: That was going to be my next question, as to why perhaps 25% or 30% or even 100%. Again, I asked you the question as to your rationale as to how you arrived at a cap of 15%, and I think that is a reasonable question.

Hon Mr Cooke: And I have explained it to you a couple of times already, that in my view, looking at the data as best we can get them together, the data that I have shared with you, 15% will provide adequate fairness and protection at the same time.

Mr Tilson: I would hope there would be more than simply a walk in a winter snowstorm, that you would come up with some rational reason as to how you arrive at a percentage increase. From what you have said, you have drawn a figure out of the hat, and I find that totally unacceptable.

Hon Mr Cooke: I do not wear a hat.

Mr Tilson: Maybe you should get one.

The Chair: Mr Tilson, if it would be acceptable, I have three other members on the list and the minister has a limited time before the committee, so perhaps we could move on.

Mr Tilson: Thank you, Mr Chairman.

Mr Mahoney: In the interest of protecting the agreement that has been made with my party's critic, I will be gentle and co-operative.

Ms Poole: Which I just told him to be.

Mr Mahoney: Exactly.

Hon Mr Cooke: And this is the first time he has ever listened.

Mr Mahoney: No, I listen. Like you, Minister, I do not always agree.

Ms Poole: He listens; he does not obey.

Mr Mahoney: You are going to make me change my mind in a minute.

Seriously, the work not done but that perhaps needs to be done, there are two areas. I too have no difficulty with not dealing with the ones where the money has not been spent. The conditional order was granted, presumably with some justification, and there is work sitting there, capital work, repair work, whatever, that needs to be done that will now not be done, so I am a little concerned about that

from the point of view of the safety of the tenants. That is number one.

The other thing is, would a compromise to the compromise be that you set a cap of 15% and anything over and above that would be at the minister's discretion so that you could review such requests, rather than just simply arbitrarily pulling a figure of 15% out of the air? Send that message out, but have it reviewed, if not by you by your delegate of some sort, a deputy, whatever, because there well may be situations where tenants have agreed to work, tenants maybe have even requested work, and there is co-operation and they are prepared to accept it.

And why? Well, nobody wants your seniors in your riding jumping off the balcony. We all support that. At the same time, we do not want them falling off the balcony either because the darn balcony has not been repaired because you have put a cap of an arbitrary figure.

So I would ask you to respond to those two things, the request for some discretion—and we had a very lengthy debate, I think it was yesterday, on ministerial discretion and staff discretion and I think my colleagues in the Conservative Party particularly were concerned about that discretionary power. We heard from the government side how it was normal, and I agreed, that there was discretion under our government and under the Tory government before that and that it was an appropriate way of dealing with it. I had no argument with that, but I would ask you to look at it from the point of view of, does work need to be done, are we going to have some system in place to investigate whether or not that work needs to be done, and will you accept some discretionary powers within the amendment?

Hon Mr Cooke: No. I think, Mr Mahoney, if the work has not been done, then the most appropriate thing for that landlord would be to look to the new legislation and the kinds of guidelines that we will have in place in terms of necessary and unnecessary and the mechanism, after the consultation process, that we develop for capital.

Mr Mahoney: You do not mean this legislation?

Hon Mr Cooke: No, I am talking about after the discussion document results in permanent legislation.

Mr Mahoney: Do you see any necessity to have a municipal inspector take a look at the order to investigate whether or not the work is necessary from a safety perspective?

Hon Mr Cooke: No. If there are safety difficulties in an apartment unit, whether it is one that has a conditional order and the landlord has not carried out the work—I mean, if there is a safety difficulty, I would be surprised that it had not been responded to, because the conditional orders were done last year and you would think in those cases that, if the landlord was concerned about safety, he would have acted on the conditional order right away and started the work in order to meet standards. Here we are in March. So I think that you and I would probably both have some concerns about the lack of speedy reply by the landlord when he has had a conditional order for several months. But in any case, I think if they are not meeting standards, municipal inspectors have a role to play, whether they have a conditional order or whether they do not.

Mr Mahoney: And the discretionary aspects of my question?

Hon Mr Cooke: I think that those questions have to be dealt with by better definitions in the permanent legislation and whatever mechanism we develop together to deal with capital.

Mr Mahoney: One final question: If you have an order with a 25% approved amount, the landlord would have the option of accepting the 15% and walking away or of not accepting anything and entering into litigation, I suppose.

Hon Mr Cooke: Well, I am not a lawyer.

Mr Mahoney: But he could accept the 15%? I am not a lawyer, either.

Hon Mr Cooke: They would have to go through the—

Mr Mahoney: You do not need a lawyer.

Hon Mr Cooke: —accept anything. As is provided for in Bill 51, they would have to make an application for a whole-building review. As I indicated, we have 18 of them now, and they go through the rent review system.

Mr Mahoney: Again?

Hon Mr Cooke: Yes. The conditional order simply is a conditional order.

Mr Mahoney: Oh, I am sorry. They do not have to, yes. Sure.

Hon Mr Cooke: And they would simply adjust it down to the 15%, or the cap, or they make an assessment of how much the work actually costs, whether all of the work has been completed, and then they will calculate a rent increase.

Mr Turnbull: First of all, I am extremely disappointed to find that we are dealing with something where apparently you have been dealing with Ms Poole without discussing it with our Housing critic.

Ms Poole: On a point of order, Mr Chair: Perhaps it would help for some clarification. The minister did offer an unusual explanation. I was actually waiting until Mr Tilson came back to tender my apologies, but there was no move to undercut anybody. I have phoned the minister on two occasions to talk to him about the—

The Vice-Chair: Mrs Poole, I think this is a point of information rather than order.

Ms Poole: Point of information. I had spoken to the minister on two occasions regarding the conditional orders and how I might rework my amendment to make it acceptable to the government. I think about noon today I had the first indication that the government had decided that it would indeed accept an amendment to my amendment, and had there been time, certainly Mr Tilson would have been brought in, and the Conservative caucus. As far as information is concerned, I am basically operating right now on the same information that you and Mr Tilson are. I have asked the same questions.

1450

How many are involved? From the information that the ministry has been able to compile for us, it appears that the 15% cap, while not universally acceptable, would at least

provide some protection for those who are caught in the conditional order scenario.

My first choice is that conditional orders are conditional orders and should go through in that way. My compromise is that if this is the most that the government is willing to accept, then I would rather the people under conditional orders have that as opposed to nothing.

Mr Turnbull: Ms Poole, I certainly accept your explanation. I do think nevertheless it was incumbent on the ministry to inform us that they were thinking in these terms. They have had some time to consider this, and I am sure that it did not come as a bolt of lightning to them at lunchtime today. However, let me press on.

Hon Mr Cooke: Actually, it did.

Mr Turnbull: It did? Well—

Mr Mahoney: Where were you sitting?

Mr Turnbull: Not close enough.

You talk about the 15%. You have not spoken about differentiating about the rental base it is on. If you have a 15% order on a building where the average suite rent is \$100—and indeed in northern Ontario we have heard evidence of people who are paying \$50 a month—that is only \$15, whereas 15% on \$800 is \$120.

Once again, you are moving the burden towards, typically, small landlords who may be very innocently trapped in this kind of situation. And while I do not like a 15% cap and I think it is reprehensible, the whole concept of ignoring the conditional orders, which, in my estimation, is a promise by the government of Ontario for performance with its citizens who make that application—I certainly do not approve of 15%, but nevertheless I would say if you are going to make it 15%, fairness absolutely dictates that you differentiate in some way about the rental base. I mean, 15% on \$100 is ludicrous whereas 15% on an \$800 rent has some significance.

Hon Mr Cooke: There is not any rent base on this list that is \$100.

Mr Turnbull: Okay. What is the lowest?

Hon Mr Cooke: The lowest is \$206, and my understanding is that his application is for 22%.

Mr Turnbull: Well, once again, my colleague asked if we could see the information you have got and you said you have got all of the information that you have.

Hon Mr Cooke: That information, quite frankly—and this is one of the difficulties of trying to gather some of that information—the figure we had was something considerably higher. That information was actually shared with me by one of the people who has a conditional order.

But I have to go. I indicated that I would be here for 50 minutes. The committee did not get started until quite a bit after 2.

Mr Turnbull: Let me ask you—

Hon Mr Cooke: I can tell you, Mr Turnbull, that I do not—it is great for you politically to make the kinds of comments that somehow 15% is inadequate, that we should be differentiating depending on the rent base. No piece of rent control legislation in this province has ever differentiated in that way, including the stuff that you guys brought in in the 1970s. So do not give me that kind of bull.

Mr Turnbull: Minister, do not give me that bull that this is interesting politically. That is insulting and I will not take it from you.

Hon Mr Cooke: It is pretty darn accurate.

Mr Turnbull: The fact is, people are going to go bankrupt because of this legislation. That is not acceptable, just waving your hand. Do not tell me this is politically good. This is politically terrible from you. Landlords are going to go bankrupt, and that serves the tenants of this province extremely badly. And do not suggest that differentiating about the rental base is not appropriate, because you demonstrate your total lack of understanding of the subject that we are talking about.

Hon Mr Cooke: Why did Mr Davis not do it in the mid-1970s then?

Mr Turnbull: He brought in rent control on buildings below a certain rent and they always allowed the flow-through of the capital costs and also the financing when Mr Davis brought in the legislation. When there was a problem, they addressed it immediately with the bill that Bob Elgie brought in. Now, do not suggest that we did not, because we addressed it, we protected the tenants of Ontario. We did not set out to destroy the landlords, though, which serves you extremely badly, and the suggestion that you make is inappropriate, Minister.

My third question to the minister, or to Mrs Harrington if he is going to go, is in terms of, will you offer some mortgage support for those people who are faced with mortgage problems who are above the 15% where they entered into that contract as a result of the information that they received from the ministry?

Hon Mr Cooke: Mr Turnbull, the suggestion is that there will be a 15% cap and that is it. I do not have money. You know the situation. You know that there was another \$1.1 billion in cutbacks to the province of Ontario last night by the federal government. We do not have cash. There is—

Mr Turnbull: Neither do the landlords.

Hon Mr Cooke: —an honest attempt—

Mr Turnbull: Neither do the landlords.

Hon Mr Cooke: There is an honest attempt—

Mr Turnbull: They have borrowed the money—

Mr Mammoliti: On a point of order, Mr Chair: Mr Turnbull has asked a question. He is not even giving the minister a chance to respond and he is interrupting, and interrupting with his voice raised, I might add as well. So I would ask that you keep some control as far as interruptions and how he is raising his voice in this meeting are concerned.

Mr Mahoney: Point of order?

Mr Mammoliti: That is a point of order, yes.

Mr Mahoney: I have a point of order.

The Vice-Chair: Mr Mahoney?

Mr Mahoney: While I am very much in support of this amendment that my critic, Ms Poole, has worked hard to obtain, I am going to tell you that if I had a minister of

the crown wave his hand at me and say, "You're full of it," I would be raising my voice too.

Mr Mammoliti: I would be raising a point of order if you raised your voice as well. I do not think that is appropriate.

Mr Mahoney: I do not think what the minister said was appropriate either.

The Vice-Chair: I would just caution all members to act as honourable members. Mr Turnbull?

Mr Mahoney: Begin at the top and we all will.

Mr Turnbull: I am absolutely disgusted at the comment that was made by the minister. For the minister to come into a committee and suggest that it is bull that people are going to go bankrupt is not acceptable. For the point of order to be made, it should have some validity.

The minister had made a comment alluding to the budget last night. He interrupted me on more than one occasion, and that is fine, in the backwards and forwards, trying, in the interests of his time, to get the discussion out of the way. But the suggestion that I was interrupting and not letting him finish—

Interjection.

Mr Turnbull: —is not acceptable.

The Vice-Chair: Mr Drainville?

Mr Turnbull: And I would like you to rule on that, Mr Chair.

Mr Drainville: Point of order, Mr Chair: I just wanted to be very clear that unfortunately all the members of the committee have earnestly wished to have the minister before us today. He has been before us. We started late, as we did this morning. The government members were here on time in both instances. We now are going to see the minister leave this committee, and I must add that the repetitive and ongoing questions that have been coming forth from the Conservative members of the committee have totally made things incomprehensible for the committee.

Interjections.

The Vice-Chair: This is I think on the same point of order. I am not sure that was a point of order.

Mr Drainville: I do not think it was either.

Hon Mr Cooke: If I might just apologize, I have to be in cabinet committee right now, and I apologize, but we will be back I guess when—or the legislative counsel will get a final draft of the amendment from Ms Poole and I think the policy issue has been discussed anyway.

The Vice-Chair: For clarification, Minister, you are coming to committee tomorrow morning?

Hon Mr Cooke: No, I am not able to come to committee tomorrow morning. I booked last week to be in committee because I thought that was the focus of the clause-by-clause today. I could only be here an hour. But I am in consultations. I have a number of meetings tomorrow.

Ms Poole: I would just put legislative counsel on notice that I would like amendments drafted which reflect the following—

The Vice-Chair: I think we are discussing what appeared to be a point of order.

Ms Poole: I just felt it important to say this before the minister left so he would be aware of the amendment that I will be proposing, that the amendment have the following provisions: that it cover conditional orders which were I believe—there is one thing I will have to discuss with legislative counsel because of words the minister said. He indicated that there were 16 situations where applications were filed before 28 November and two after. The amendment I would like would cover those 18 situations where the work has been done and where the landlords are out of pocket and where they have had conditional orders by the rent review system. Second, I will be proposing that there be a 15% cap on the amount allowable. While it is probably not acceptable to any member of this committee, it is the only workable compromise we appear to have been able to reach. So that will be what I will ask legislative counsel to bring back for us to debate tomorrow.

1500

The Vice-Chair: Is that your understanding, Minister?

Hon Mr Cooke: Yes.

The Vice-Chair: Thank you. Mr Turnbull, you still have the floor.

Mr Turnbull: Who is going to take his place?

The Vice-Chair: The parliamentary assistant is here.

Mr Mahoney: Perhaps she will not wave her hand and yell at you.

Ms Poole: This is just a suggestion, Mr Turnbull, but you might like to wait until you see the amendment and get further information from the ministry before continuing this debate—whatever you want.

Mr Tilson: I wonder if Mrs Harrington has a hat.

Mr Mahoney: She is a much gentler kind of person.

Mr Turnbull: I have a couple of questions and then I will defer the rest to when we get the amendment, Ms Poole. I would ask, is it potentially one of the areas that you have been told you could be in danger of losing on a charter violation, the conditional orders?

Ms Harrington: Sorry, what was the question again?

Mr Turnbull: Have you been advised that in the area of the conditional orders the government is at its weakest with respect to a charter challenge?

Ms Harrington: I am sorry, I cannot answer that at this moment. Maybe staff could help me.

No. We have not been advised of that, no.

Ms Parrish: I would just clarify that the minister responded to some of the constitutional questions last week and he was asked the specific question as to whether the constitutional opinions of the ministry had been shared with the government members of the caucus. I would comment that they have not and that is why Mrs Harrington does not have personal knowledge of that. I would say that there is no—

Mr Turnbull: Could you speak up a little, please?

Ms Parrish: Excuse me. Did you hear the first part or did you want me to repeat that, sir?

Mr Turnbull: Yes, I heard what you said.

Ms Parrish: As we have indicated before, I am not in a position to release opinions the government has received in a solicitor-and-client relationship, but I would indicate that there is no particular distinction to be made between conditional orders and anything else.

Mr Turnbull: Let me ask this question to ministry staff: In considering a 15% cap, was there any consideration for the idea of differentiating about what the rental base was, because as you will appreciate, 15% on a \$100 rent, or a \$200 rent—and let's take the \$200 rent, since the minister did not seem to like \$100 rent—that is only \$30, whereas if you are talking about an \$800 rent it is \$120. If you are going to replace a roof shingle by shingle, you can do it with maybe \$30, but it can cause some severe hardship at the low end of the range. Was there some consideration given for a base level at which the percentage cap would not apply?

Ms Parrish: The problem would be very much the problem that the minister identified earlier. All aspects of the RRRA relate to percentage increases; that is, we do not regulate the base rent in any way. We do not regulate it down or up. Therefore, it would be difficult in the context of an amendment to the RRRA to suddenly introduce some concept that does not fit with the rest of the bill and for which there is no mechanism. If you were going to start introducing a base rent concept, you would have to start trying to introduce it throughout the rest of the bill, and this might be an issue that you might want to do on a rent control system, but it would be relatively difficult to introduce a whole new concept of base rent review into the middle of this bill, because you would have to be dealing with some very difficult issues as to, how would you decide whether or not you had a low base rent?

Mr Turnbull: I would suggest that, given the fact that the ministry has produced information for us as to what the average rent in each of the target communities is, we have that information. We also know what the rents in the buildings are, so that is available. You are saying it would be difficult to introduce it in this. I did not hear the word "impossible," and I have to say that this is very difficult legislation. This is after the fact saying that it does not matter, the fact that you have gone out and you have borrowed the money.

In many cases how you borrow money to do renovations is that you will go to the bank, as you are well aware, and then you will in some way formalize the form of the loan at a later date, after it is completed and after it has been entrenched in the rent, and it is only, if you wish, conditionally lent to you during the initial renovation stage and the bank more formalizes the lending situation after the rent increase has gone through. It has put these people in a terribly difficult situation.

So I am saying that it is not a perfect solution, but it is certainly a step in the right direction to recognize that people at the low end of the scale are probably more desperately affected than the people at the high end of the scale.

I do not think there should be any cap, quite frankly, but nevertheless, if it is going to occur—and we certainly know that we have all of the votes on that side and they are

going to vote for it, whatever you put up—that being the case, we have got to deal with reality and say, “Okay, how can we improve this?”

I still return to the fact that you have the information to determine what average rents are in the target communities and you know what the rents are in the building. Therefore, it would be relatively easy to administer it. It would not throw a heavy burden on the ministry staff.

Ms Harrington: The whole point of differentiating on a percentage basis between, say, rents of less than \$500 or more than \$500, as you know, we can deal with all of those types of questions in our discussion paper, in our legislation for the long term. You know, and we have discussed it many times, that this is an interim legislation. This is something that we are trying to do to stop the process so that we can then come to grips with making a new system, a system that works. Those types of suggestions will all be dealt with, I would hope.

Mr Turnbull: As you know, Mrs Harrington, I understand and we beg to differ on certain things, but I keep on going back to the one core issue. Tenants are going to be hurt by the demise of landlords, we are going to adversely affect our housing stock, and we cannot unbankrupt these people once it has occurred. If you have gone to the bank and you have borrowed an amount of money based upon a conditional order, that is what you literally do. You take the conditional order to the bank. That is often the reason that they have gone the route of the conditional order, and that bank says, “Okay, based upon that, we’ll lend this amount of money,” and it is a temporary loan until the work is done and the rent increase has passed through.

Now these people are faced with the problem that they have to refinance, and I am very concerned about the impact on tenants who have buildings that go into bankruptcy, because it is a very messy affair for the tenants. I am also concerned about the landlords who are faced with this, whose life savings are wiped out. That is why I am introducing the idea that at least if you go in with a 15% cap, have it somewhat sensitive to the base, and it is not complicated to administer.

Ms Harrington: I think we have certainly heard your point. There may be two suggestions at this time, whether Ms Poole would like to move on the amendment she has put forward or whether we would like to defer it until tomorrow when the legislative counsel brings back something more definite and then we could have the discussion.

Ms Poole: I would suggest that by tomorrow morning the ministry may have a few extra figures for us. They have been looking at this very closely, so that would be helpful. We will also have the amendments drafted from legislative counsel, and maybe it is more appropriate, rather than go on at this time, to wait until we have the finished product before us.

1510

Ms Harrington: Okay, if that is satisfactory with everyone.

The Vice-Chair: If I could just recap where we are.

Ms Poole: Where are we?

The Vice-Chair: That may be with some difficulty.

Ms Poole: We are in room 151.

The Vice-Chair: We had unanimous consent to revert to a discussion on this section, 100e(2), with the idea that there is going to be a compromise amendment presented in the morning, and the idea was to have this philosophical discussion with the minister. The minister has now gone. The Chair is now in a situation where he has Mr Mahoney, Mr Drainville and Mr Tilson on the list to speak to this.

Ms Poole: Mr Drainville is gone.

The Vice-Chair: Well, he may return. I need some direction. Ms Poole has suggested we move on to the clause-by-clause as the minister is not here, and it would give legislative counsel an opportunity to draft the so-called compromise amendment. If that is suitable to the committee, I would suggest we get on to 100p.

Mr Tilson: Just a point of order, Mr Chair: I understand what you are saying, but I add, because the whole subject has been reopened, it would seem to me, because the Progressive Conservative Party feels quite strongly that there should not be discrimination, that if we are going to talk about conditional orders, we should vote on an amendment that would take conditional orders out of the legislation as opposed to a cap of 15%.

The Vice-Chair: The Chair’s difficulty here is that we stood down a section, 100e(2), so we could have a discussion with the minister at a later date. We know there is an attempt for an amendment to be presented to this committee. We do not have that amendment right now, Mr Tilson. So all I am suggesting, and I certainly want all members to have every opportunity to voice their views, is that perhaps it would be more useful for the committee to discuss this section when we actually have the amendment before us and then there is an opportunity for you to present amendments or whatever at that point.

Mr Tilson: If it is clear that we will be in a position to present amendments as well, that is fine.

The Vice-Chair: All I am really asking is for permission to revert back to where we were, which was doing clause-by-clause and we are at section 100p. I would hope we could do that. Ms Poole, you have a point of order?

Ms Poole: With reference to Mr Tilson’s point, please correct me if I am wrong, but I believe that my amendment was the one I had introduced and that the minister asked that be tabled today and that amendment actually does what Mr Tilson is proposing. I do not know what the procedure is, whether tomorrow when we deal with it we vote on my initial amendment and then my amendment to my own amendment?

The Vice-Chair: I am sorry, I misphrased it. I realized we were speaking to your amendment, right? Or what would be your—

Ms Poole: Well, the confusing part is that there are two amendments there, my original amendment and now my own amendment to my own amendment, which is very confusing. What I would like to know from legislative counsel, or the clerk, is, do we vote on my original amendment first?

The Vice-Chair: Thank goodness the clerk is going to clarify what I cannot.

Clerk of the Committee: My assumption is that you would be withdrawing that original amendment and putting a new amendment or amendments in order to effect the change that you want.

Mr Tilson: Mr Chair, that is the point of order that I was asking, because I had certainly indicated to Ms Poole some time ago that our party was prepared to support her with her original amendment. If Mr Cooke has had second thoughts with respect to conditional orders and now wishes to revise that, it would seem to me that if we are going to follow an order of debate, because Ms Poole was the one who introduced that initially, that should come first, Ms Poole's initial amendment, and if there is a second amendment with respect to a cap or something similar to that, that would be second, assuming that the first would fail. At least, Mr Cooke has indicated that he is not supporting anything else but that, but hopefully this committee would listen to a debate and support Ms Poole's initial amendment.

The Vice-Chair: All that may be decided, but I think we have an agreement to deal with this clause tomorrow morning after there are some suggestions on a proposed amendment from legislative counsel, and I would encourage your caucus, together with the Liberal caucus, together with the government caucus, to talk to legislative counsel about this issue, and perhaps you are going to come to a compromise that probably does not please anybody in particular but may sort of please everybody in general.

I am just trying to be helpful and know where this committee is attempting to go here. I think myself that it would be in the interests of the committee to deal with specific issues right now, and the specific issue is section 100p, and we could have this discussion, which I recognize is very important to the members, tomorrow morning. That is just a suggestion; I am in your hands. Is that the consensus of the committee?

Ms Poole: Agreed, and in the meantime we can talk and try to figure out what we are doing.

The Vice-Chair: That would be an excellent suggestion, Ms Poole. Now we have section 100p. Would the parliamentary assistant wish to offer an explanation of section 100p, for those very few members who would not be intimately familiar with it?

Ms Harrington: Section 100p: This section provides for the repayment of rent from the landlord to the tenant where a voided order is not replaced with a new order. The landlord is required to pay an amount which is the difference in rent between what the tenant paid under the voided order and the amount that is payable had the landlord not made application, ie, the guideline increase. The repayment shall be made not more than 60 days after the date that part VI comes into effect. So basically this is similar to section 100o, which we did discuss at length, but in this case the order is not replaced because there were no parts of the order which would fall under the new categories.

The Vice-Chair: Questions, comments or amendments to section 100p?

Mr Tilson: Just looking at the first word in this section, does that imply that it is possible that an order that is made before 1 October 1990 might in fact be valid, because of the word "if"?

Ms Harrington: "If an order is rendered void under section 100n." If you look at section 100n, it clearly states that anything before 1 October 1990 is rendered void.

Mr Tilson: That is my question, Ms Harrington.

Ms Harrington: That is right.

Mr Tilson: My question is whether section 100p contradicts section 100n. I believe it does.

Ms Harrington: No, it does not.

Mr Tilson: I believe it does. You say "if an order." Section 100n is quite clear as to which orders are invalid, and those are before 1 October 1990. Section 100p suggests that there may be orders prior to 1 October 1990 that might in fact be valid.

Ms Harrington: The word "if" there is referring to an order which is rendered void because of its date, as we have just clarified, and no new order may be made under section 100o; then the following applies. So the word "if" refers to if both of those conditions are met, then the following will happen. Is that clarified?

Mr Tilson: No. I am just questioning the wording, that it may suggest that orders prior to 1 October 1990 are valid, which of course we support.

Ms Harrington: I think the intent—

Mr Tilson: It just leaves that much more—you know, you have to try and avoid litigation, and if you can avoid it, I think it is incumbent upon this committee to do that.

1520

Ms Harrington: Maybe a sentence from our legal assistant would clarify the matter whether or not this will stand up to litigation.

Mr Tilson: Okay.

Ms Harrington: Would you like to comment?

Ms Parrish: I could comment, but this is not really a policy issue. I mean, what you are really asking is whether or not this drafting accomplishes the policy intent, whether it is one you agree with or not.

Mr Tilson: Yes.

Ms Parrish: I would think it does accomplish that policy intent. Unfortunately, since this is truly a drafting issue, I will ask my colleague Betsy Baldwin to address it. It seems to me that the language is fairly straightforward. It says if X and Y happen, then this is the result. But certainly I am not legislative counsel, so I will ask them whether or not they feel they think that the combination of drafting would lead to a circumstance where one could make the argument that there was some order that was not appropriately voided.

Ms Baldwin: I apologize. I was in a side conversation. If you could just quickly repeat the question to me, perhaps I—

Mr Tilson: My question is whether, as a result of the word "if" in section 100p, that implies that orders prior to 1 October 1990 could be valid. In other words, do they

contradict each other? Should the section state something to the effect that if a landlord collected rent deemed void under this act, etc, as opposed to the way it has. My reading of it is it could imply that an order prior to 1 October 1990 is in fact valid.

Ms Baldwin: I apologize. I do not see the problem that you are raising yet. Can you try me once more?

Mr Tilson: When we use the words "if an order is rendered void," grammatically that assumes that it is possible that an order prior to 1 October 1990 might not indeed be void. They are either void—

Ms Baldwin: I do not believe that that contradicts the provision that renders orders void, no.

Mr Tilson: Then why would you say "if"?

Ms Baldwin: Because this section is only applying to orders that are rendered void.

Mr Tilson: Then they are void or they are not void. It is not if they are void; they are void.

Ms Baldwin: The ones that are being referred to in section 100p are void, that is true. There are orders out there in the world which have not been rendered void by section 100n.

Mr Tilson: I am looking at the section. It is referred to specifically, in section 100n and 100o, which is what the section refers to.

Ms Baldwin: Yes.

Mr Tilson: And it says, "if an order is rendered void."

Ms Baldwin: Right.

Mr Tilson: Well, either they are void or they are not void. It is not if they are rendered void. They are void or they are not void. Those sections are quite clear as to what is void and what is not void.

Ms Baldwin: That is right, and section 100p is dealing with the ones that are void, not with the ones that are not void, and that is what "if an order is rendered void under section 100n"—sometimes in legislation you see "where" instead of an "if." The point is that if an order is rendered void under section 100n and no new order is made under section 100o, then the rest of that section takes effect; otherwise it does not.

Mr Tilson: I made my point, Mr Chair.

Ms Harrington: Thank you.

The Vice-Chair: Thank you, Mr Tilson. Are there further comments or questions to section 100p? If not, is it the pleasure of the committee that this section carry? Section 100p is carried.

Section 100q:

Ms Harrington: This section provides for the repayment of rent from the landlord to the tenant where a notice of phase-in is voided. The landlord is required to pay an amount which is the difference in rent between what the tenants paid under the voided notice of phase-in and the amount that is payable had the landlord not received a phased-in notice. The repayment shall be made not more than 60 days after the date that part VI-A comes into effect.

Ms Poole: Mr Chair, I tabled an amendment to strike out section 100q of the act, but since my main motion about phase-ins has been defeated, I withdraw the amendment which I had tabled regarding section 100q.

The Vice-Chair: Thank you, Ms Poole. Are there further comments or questions regarding section 100q?

Mr Tilson: Just a further aside.

The Vice-Chair: An aside, Mr Tilson.

Mr Tilson: Here is a perfect example where we use the word "where" and I think it would be more appropriate in the previous section. But however, there is an inconsistency. What I am trying to do is to avoid litigation. That is one of the problems that this legislation has developed over the years. It is a terrible bureaucracy it has created and not to speak against my fellow lawyers, but lawyers love this sort of thing. I mean, that is how you win cases and if you can find some technicality to defeat something then you do it. I think this committee has an obligation to avoid such a technicality.

Ms Harrington: I appreciate your intentions.

The Vice-Chair: Thank you, Mr Tilson. Further comments, questions? If not, is it the pleasure of the committee that section 100q be carried? Carried.

Section 100r:

Ms Harrington: This section covers the situation where the landlord does not repay to the tenant within 60 days after the Residential Rent Regulation Amendment Act, 1990, comes into force. That is, he does not repay the difference between the total amount of rent increase collected under a voided order or notice of phase-in and the amount of rent increase permitted by the guideline or permitted in a replacement order under part VI-A. In these cases the tenant may either deduct the amount owing from subsequent rent payments or make an application to the Ministry of Housing for a rent rebate for the excess amount of rent paid. Persons who no longer reside in the rental unit but have also paid an excess amount of rent may also make a rebate application.

Ms Poole: I have two questions about this section. One of them is how this is logistically going to work. Say a landlord has to repay a total of \$2,000 and a tenant's rent is \$500 per month. Would the tenant be entitled to four rental periods to deduct the full amount from those, or is there some sequence of how the tenant is to get reimbursed for that?

Ms Harrington: According to what I have read, yes that is one of the options.

Ms Poole: My second question regards the provision that tenants may apply for repayment of the excess under section 95, which means the tenant would go to rent review. I am trying to conceive of scenarios where this would work. Would this be when the tenant, for instance, had already given post-dated cheques to the landlord or automatic bank withdrawal and therefore has to go to rent review? I cannot conceive of a tenant wanting to go to rent review if he had the option of deducting it from his rental payments.

Ms Harrington: This covers the situation where the tenant may have moved out, I would believe.

Ms Poole: Why?

Ms Harrington: So that then he would have to—

Ms Poole: Make application that they have terminated their tenancy?

Ms Harrington: Yes.

Ms Poole: Okay, thank you. That is all I had.

The Vice-Chair: Are there further questions or comments on section 100r? If not, is it the pleasure of the committee that section 100r be carried? Carried.

Section 100s:

Ms Harrington: Section 100s, subsections (1), (2) and (3): This section provides transitional rules for all pending whole-building review applications that were made before the Residential Rent Regulation Amendment Act, 1990, came into force and where the first effective date of rent increase applied for is on 1 October 1990 or after.

1530

In these cases, once Bill 4 becomes law, subsection 100f(1) provides that pending whole-building review applications will be converted into whole-building review applications under part VI-A. The criteria used under part VI-A will be used in determining the justified rent increase.

Subsections 100s(2) and (3) allow both landlords and tenants who are affected by a converted application under part VI-A to make submissions concerning that application within specific time frames once Bill 4 comes into force. Landlords will have 30 days after Bill 4 becomes law to make submissions. Extensions of time can be granted under the general power to extend time found in subsection 19(5) of the RRRA, 1986. Tenants will have 30 days after the landlord's submission period or from the extension date to reply.

So basically what we are saying is that the regulations will change to the new criteria.

The Vice-Chair: Are there questions or comments on subsections 100s(1), (2) or (3)? Seeing none, is it the pleasure of the committee that subsections 100s(1), (2) and (3) be carried? Carried.

Section 100t:

Ms Harrington: This section provides a transitional rule for all pending tenant applications disputing an intended rent increase that does not exceed the current maximum rent plus the guideline amount that were made before the Residential Rent Regulation Amendment Act, 1990, coming into force and where the effective date of rent increase for the unit is on 1 October 1990 or after.

In these cases, once the RRRAA becomes law, subsection 100t(1) provides that pending tenant applications under this part will be converted to tenant applications under part VI-A. The criteria under part VI-A will be considered on the tenants' application.

Subsections 100t(2) and 100t(3) allow both tenants and landlords who are affected by a converted application under part VI-A to make submissions concerning that application within specific time frames once the RRRAA comes into force. Tenants will have 30 days after the day

this amendment becomes law to make submissions. Extensions of time can be granted under the general power to extend time found in subsection 19(5) of the RRRA, 1986. Landlords will have 30 days after the tenant submission period or the extension date to reply.

The Vice-Chair: I think we should deal with this section by section. Are there comments, questions or amendments to subsection 100t(1)? Being none, is it the pleasure of the committee that subsection 100t(1) carry? Carried.

Subsection 100t(2). Are there questions or comments on subsection 100t(2)? Seeing none, is it the pleasure of the committee that subsection 100t(2) carry? Carried.

Subsection 100t(3). Are there questions or comments on subsection 100t(3)? Seeing none, is it the pleasure of the committee that subsection 100t(3) be carried? Carried.

Ms Poole: I have an amendment to section 100t. It is actually an addition called section 100ta.

The Vice-Chair: Ms Poole moves that section 8 of the bill be amended by adding the following section to the act:

"100ta(1) This section applies to all work orders against a residential complex that have been filed by a municipality with the standards board and that are outstanding on or after the day that is 30 days after the Residential Rent Regulation Amendment Act, 1991, receives royal assent.

"(2) If, in the opinion of the standards board, the subject matter of a work order affects the structural soundness of the residential complex or the health or safety of its tenants, the standards board shall give written notice to the landlord informing the landlord,

"(a) that the work order is outstanding;

"(b) that if the landlord does not make reasonable efforts to comply with the work order within 30 days of the date of the notice, the standards board will notify all affected tenants of that fact; and

"(c) that upon receiving notice under clause (b), the tenants will have the right to withhold that portion of rent equal to the percentage increase permitted under subsection 71(1) until the standards board is satisfied that the landlord is making reasonable efforts to comply with the work order.

"(3) If the landlord does not make reasonable efforts to comply with the work order within 30 days of the date of the notice, the standards board shall forthwith notify all affected tenants of their rights under subsection (4).

"(4) A tenant may withhold that portion of rent equal to the percentage increase permitted under subsection 71(1) if he or she has received a notice from the standards board that the landlord has not made reasonable efforts to comply with the work order and may continue to do so until the standards board notifies the tenant otherwise.

"(5) Upon receiving satisfactory evidence that the landlord is making reasonable efforts to comply with the work order, the standards board shall forthwith notify all affected tenants that it has received that evidence and that they may no longer withhold that portion of their rent."

For the benefit of the committee, would you like to take this opportunity to explain this amendment?

Ms Poole: It is a very lengthy amendment, but I think it can be explained quite simply. This amendment deals with work orders that are outstanding. The current practice in Ontario is that I believe in every major municipality and in many smaller municipalities they automatically file outstanding work orders with the Residential Rental Standards Board as a matter of course. This is already in effect. Unfortunately, the standards board has not had sufficient authority to deal with these matters in a very timely way.

What I have proposed is that the standards board would take a look at the outstanding work order, and if it was a substantial work order, in other words, if it affected the structural integrity of the building or if it was a case of the safety or health of the tenants that was placed in jeopardy, the board would then issue a notice to landlords and tenants (a) that the work order was outstanding and (b) that the landlord would have 30 days to make reasonable efforts to comply with the work order. If the landlord failed to make reasonable efforts, in the opinion of the standards board, then immediately upon the expiration of the 30 days it would notify the tenants that they automatically would have the right to withhold the guideline increase from the landlord until such time as the standards board would give them notification that the landlord has mended his or her ways and is making reasonable efforts to comply.

The balance of the amendment gives, first of all, the standards board the authority to notify the tenants, gives it the authority to notify them that they may withhold the statutory guideline increase and gives it the authority to send out the second notice saying that, "Everything has been rectified and you may now commence paying the guideline increase again."

1540

There were several specifics to this amendment that I added to make it workable. One is that it would not be every work order that would receive this treatment. If a tenant complained that one of the tiles in his shower was cracked, this would not notify the kind of action that all tenants in the building could withhold their statutory guideline rent increases. So we tried to make it substantive issues.

The second thing is that I specifically did not say that the landlord has 30 days to comply with the work order, because, as you are aware, there are different types of work orders. You may have a work order regarding the structural integrity of the underground parking garage which would take many months to complete, would involve many facets, but other work orders such as the fact that the lighting has to be repaired in the garage could be completed within the 30-day period. So I used the terminology that the landlord would have to make "reasonable efforts" to comply with the work order. For an underground parking garage restructuring, this would probably involve getting structural engineering reports, getting quotes and showing that the landlord was well on the way to dealing with this. On the not-as-substantive work orders, it would signify that they would actually require compliance.

Virtually every tenant presentation that we had to us mentioned the difficulty with maintenance, repairs and

outstanding work orders, and we had a number of presentations, very thoughtful presentations, by tenant advocates which referred to the quality of accommodation.

For instance, we had the Housing Help Centre for Hamilton-Wentworth, which in Hamilton gave us thought a very sensitive brief in which they state:

"We believe that Bill 4 should deal with the quality issue. We suggest that no rent increase be allowed at all if there are outstanding building, fire or health regulation infractions. Certainly the new rent review system should address quality in its regulations and implementation. A comprehensive housing policy should address the problem of bringing up to standards a great many substandard units occupied by low-income tenants."

Then we also had the Stormont Dundas Glengarry Legal Clinic, which stated:

"While the present bill of course is an interim measure, it would undoubtedly better serve the interests of low-income tenants if it created greater incentives for adherence to standards of quality. In our jurisdiction, the supply of housing at an affordable price for low-income persons is graphically related to the issue of quality of that housing. Municipal control of quality is minimal, with one person to carry out inspections in response to a tenant complaint. The municipality may issue a notice to the landlord to carry out repairs to premises found to be in contravention of municipal property standard bylaws, but it takes no other legal steps to enforce this notice. We have reason to believe that this is a pattern throughout Ontario.

"The result, at least in our community, is that much of the housing stock is substandard. Most of the affordable housing fails to meet property standards. We think that low-income tenants should not have to accept as a way of life that the roof over their heads will be one that leaks."

I submit to you that for all tenants they should not have to accept as a way of life that the roof over their head will be one that leaks, and I think their point is very well taken. We have measures currently in place and we have a measure suggested in Bill 4 that is not going to be effective in dealing with these outstanding work orders.

The rationale behind this specific amendment is that it is going to make it very easy for the tenant to get action without having to make a rent review application. It does not require that a tenant have a sophisticated knowledge of rent review law. It does not require a tenant to go before a rent review administrator or hearings board and wait for many, many months for a result, and it does not require that the burden of proof has to rest with the tenants.

For instance, if you look at section 100g, which we passed yesterday, and I made some initial comments on this, the way it deals with the maintenance and repairs and outstanding work orders is to provide that the tenant would have to make application for relief. But I say to you, how does the tenant prove that there has been "a deterioration in the standard of maintenance and repair that affects the rental unit," because for the tenant to prove that they have to prove what the standard was originally and what it is now. In the best of all possible worlds, tenants would have had pictures of what it was like five years ago and what it is like today, they would have had evidence to that effect,

out I have had many cases where tenants have had difficulty proving it. It is not a matter that the maintenance and repairs deteriorated, the difficulty was in the tenant proving it. So this eliminates all that kind of provision and burden and onus from the tenant.

Prior to tabling this amendment, I did pass it by several authorities to see if they felt it was workable, a senior official at the rental standards board and also the building inspector for north Toronto, and the comment back was quite favourable, that it was workable, that no new bureaucracy would have to be set in place, that it could work well within the current system and that it would create a great incentive for the landlord to actually deal with the matter expeditiously.

There were just a few more comments I had to make, referring again to the presentation by the Stormont Dundas Glengarry Legal Clinic, which I thought was very helpful to us. They propose that something be done in Bill 4 to deal with the standards bylaws and also the fact that outstanding work orders were out there.

They presented a stick-and-carrot approach, and under the carrot approach they said:

"The bill should recognize as a ground for requesting a rent increase legitimate costs associated with the repairs required to ensure adherence to property standards. If this ground is not available, we consider that those persons whom we represent and on whose behalf we have advocated in this brief will be most vulnerable."

I really agree with this, which is why I wanted a provision in for necessary repairs.

The particular amendment which I tabled which dealt with structural integrity of a building or where the tenant's health and safety was in jeopardy was defeated, but we gave one last chance. We have a chance to ensure that tenants have an opportunity to have safe, comfortable buildings without going through hoops to achieve it, so I would submit to you that this amendment is not only desirable, this amendment is workable, without increased bureaucracy, and that every member of this committee should support it, even Mr Mahoney.

Mr Tilson: The Progressive Conservative Party supports the amendment. Just as Ms Poole has indicated, this is a problem that arose time and time again throughout the hearings, of tenants showing their frustration with certain unscrupulous landlords who are abusing the system, and if the committee is going to show the willingness to consult with the people of the province, I think it is an excellent amendment and should be supported by the committee.

Mr Turnbull: I certainly applaud Ms Poole for bringing this forward. I think we have got to show leadership in this province in terms of how we are going to address the maintenance of buildings and make sure that people are safely housed and that it is a healthy environment.

We have heard several presentations from tenants who were frustrated at the fact that ongoing maintenance was not being done. It is tremendously important that we address that, and certainly in the permanent legislation we would probably need to address it more fully, but this goes a long way towards plugging the gap at the moment. We

have got to make sure that preventive maintenance is done so that we cannot have a bunching of capital costs.

1550

I mean, I have been one of the loudest advocates of making sure that money was available to maintain buildings, and that means that tenants will have to pay for it, but by the same token, I will be one of the loudest advocates of making sure that the buildings are maintained and that they do not let them deteriorate so that they have to do capital repairs. There is 1% in the present guidelines which is allocated to capital costs, and within those confines I think it is perfectly reasonable to expect that we should enforce that that money is spent on what it is meant to be spent on.

However, obviously it does raise the problem that if something of a major nature comes forward, it is unreasonable to think that somebody who is losing money is going to suddenly produce the money out of the air. But this certainly goes a step towards making sure that that 1% is spent appropriately on maintaining buildings, so I certainly support it.

The Vice-Chair: Any other members wishing to speak to Ms Poole's amendment?

Ms Poole: Can I ask for a recorded vote, Mr Chair?

The Vice-Chair: A recorded vote.

Ms Harrington: I wanted to explain our position.

The Vice-Chair: Oh, I am sorry.

Ms Harrington: We thank the Liberal Party for this amendment, and we have had our staff look into the feasibility of this amendment.

I would first of all like to say that having a system where it is easy for the tenant to get enforcement of maintenance necessities and orders is of primary concern and that the maintenance mechanisms which are in place now we realize are not working efficiently, but we must recognize that during the time of this interim bill there are maintenance mechanisms in place that are not going to be any worse than what has been in effect for the last five years or so.

We are concerned about the quality of housing, and I just want to refer back to—you mentioned the Housing Help Centre of Hamilton-Wentworth presentation. I do remember that, and you did quote from them. They were talking about the new rent review system and a new housing policy for the whole housing policy for Ontario, and this is something even beyond the green paper discussion that we are working on for a much longer—you know, it is going to take several years, and hopefully over the term of this government we will have a housing strategy for the province which will make some sense.

Mr Turnbull: Unlike this.

Ms Harrington: What they were talking about was the long-term legislation, the discussion paper, that they want a mechanism in place that is going to work.

I would like staff to answer to you directly as to what the implications of this amendment are. I have some of them written down, but maybe I will ask staff to comment first and I will conclude with these comments.

Ms Parrish: As Ms Harrington said, I think there is much that is attractive to the basic underlying policy that is

being put forward here. The problem is, it is very difficult to integrate this concept with the current structure that is in the RRRRA.

One of the concerns is that under this proposal it would be a very long time before there would be any rent penalty at all, because a work order would have had to have been sent to the rental standards board, it would have had to have been outstanding at least 30 days after the act receives royal assent, there would have to be a determination made that the structural soundness or health and safety is affected, then there would be another 30 days in which there could or could not be reasonable efforts made by the landlord, and then the tenants would have to be notified. We know that under the current system we already have an eight-and-a-half-month period of delay. This would now be adding at least another 60 days, so in some cases it would be quite conceivable that nothing at all would happen for a full year.

The other concern is that the standards board is really not equipped to do this. The standards board does not currently have hearings, and unfortunately some of the things that people want to be determined are things that are very hard to determine without a hearing.

For example, one of the things you have to look at is whether the landlord has made a reasonable effort to comply. If you do not have a hearing, how do you decide that? The landlord is going to say, in some cases, "I made a reasonable effort," and the tenants are going to say, "He hasn't made a reasonable effort," and if there is no ability to have a hearing, how are you going to test that?

In the end—and I should say that because the standards board does not now have hearings, there are no procedural mechanisms in place. For example, unlike the rent administrator, there is no appeal. So if you made this decision, suppose the tenants were unhappy and they said to the standards board something or another and, "He's not making a reasonable effort," and the standards board rules, "Oh, yes, there is a reasonable effort," there is no appeal. And there may be no hearing either.

So it is very difficult to make this work within the structure that we have and that is why we have been looking at options that would collapse the function of maintenance problem determination with the rent penalty determination in one hearing.

Ultimately, the penalty is very minor. It is a temporary withholding of the rent increase. There is no absolute reduction, and there is a suspension of the cost guideline increase. So it is going to be dependent on what time of year all this happens, because if the landlord just got the guideline increase last month, then frankly he does not care for a whole year whether or not this is a problem, because there is no ability to actually lower the rent, so you would have to sort of make sure that you got in the system at the right time for this to actually be any real pressure on the landlord.

Then again, the landlord, actually does not have to comply with the work order at all. He only has to make a reasonable effort to do so. Again, it is difficult to know how you would ascertain that, because there would not really be the system in place.

That is not to say that you could not, if you had a new system, deal with some of these problems, but it is very difficult to make this work within the current structure, and certainly this amendment does not provide for some of the problems that I have identified. That is not to say that this is not a very valid and legitimate issue to be raised in any full system in the end.

Ms Poole: Did Ms Harrington have any further comments? If not, I certainly do.

Ms Harrington: Are you finished?

Ms Parrish: Yes.

Ms Harrington: Just to tell you very briefly the reasons that we cannot accept this amendment are, first of all, we feel it cannot fit into the system of the RRRRA. This is strictly an amendment to the RRRRA.

The other concern which is very clear is the time frame for this, as Colleen has mentioned, eight to nine months and then 60 days on top of that. We are hoping by the time we have new legislation in place by the end of this year that we will have some answers that will work more quickly than this. The other thing is, the temporary withholding of rent increases is the only penalty, which we feel is a rather minor penalty. So the overall thing is that we want a system that works and that we want to have that as part of the long-term legislation.

The Chair: We have Mrs Poole and Mr Tilson.

Ms Poole: Mr Chair, I am making great efforts to refrain from the use of an unparliamentary word or indication that was used earlier in this session today. This nonsense about the eight and a half months' delay is—nonsense. I am still refraining, Mr Chair. There is an eight-and-a-half-month delay with the standards board orders right now because it has to go through rent review. That is why in this motion we have specifically said that they do not go through rent review, the standards board would have the authority to deal with it.

The second point I would like to make is, you say it takes a long time to go into effect and by the time it would go into effect Bill 4 would be over. We have, ladies and gentlemen, piles of outstanding work orders that are there right now sitting with the standards board and sitting with municipal inspectors that they would love to have dealt with. We do not have to wait for orders to become outstanding, they are there. So we have cut off all that time.

You have, first, got lots to work with; there are outstanding work orders already there and present. Second, the time frame for this is quite expeditious, because as soon as the municipality files that outstanding work order with the standards board, the standards board would then immediately send out this letter to notify landlord and tenant of the situation. After 30-day expiration, the building inspector would then make a representation to the standards board if, in the opinion of the building inspector, reasonable efforts to comply with the work order had taken place. So you are not asking for new bureaucracy, and it can work within the existing system.

1600

It is true there is no hearing board, hearings at the board level, but we are not asking for a major bureaucratic

nightmare to be developed. We want something very quick and very expeditious, that the building inspector and the standards board between them have agreed that this is or is not a reasonable attempt to satisfy the work order, and they have the expertise to do this.

I just have a great difficulty in the whole approach of the government that we have to wait for the long term, although the long-term legislation is going to be some nirvana. It is not going to solve all our problems. Surely this is a way to test out whether this system works. Contrary to what we have just heard, I believe, and certainly the two people I approached, one I told you about from the standards board and the building inspection department, felt it was eminently workable, without increased bureaucracy, without time delay, and it would—what it does is it cuts the rent review out of the equation, which any way you look at it is going to speed things up. It is far better than what we have now and it is far more substantial than 100g, which we passed yesterday.

Mr Chair, I would like to call for the vote.

Ms Harrington: With regard to the time line, I would like to ask staff to check on that again.

The Chair: You do not want Mr Tilson to speak?

Ms Poole: Oh, yes, I am sorry, Mr Chair. Mr Tilson and Mrs Harrington I think have comments. That is fine.

The Chair: Mr Tilson?

Mr Tilson: I have no further comments, Mr Chair.

The Chair: You are calling for the vote?

Mr Tilson: Yes.

The Chair: Mrs Harrington?

Ms Harrington: I wanted to ask staff to clarify the position of why it will take longer than our amendment is discussing here.

Ms Parrish: I want to clarify that it is true that the eight-and-a-half-month period includes the period that rent review administrators spend doing the case, but what would happen under this amendment is that the determinations that are now being made by rent review administrators would be made at standards board. They currently have most of these orders for several months and then they pass it on and then somebody else makes the next decision, but they would now have to make new decisions about the reasonableness of the conduct, the structural soundness and so on, which they do not currently decide. So it may very well be that there would be some reduction in the time made, the total time, but there may be some increase, because they have to make a new decision. It is a guesstimate as to how long it would take.

The Chair: Okay, I think we have had ample debate. George, you do not want to debate on this?

Mr Mammoliti: No.

The Chair: Very good. I think we are going to vote on Ms Poole's amendment.

The committee divided on Ms Poole's motion, which was negated on the following vote:

Ayes—5

Brown, Mahoney, Poole, Tilson, Turnbull.

Nays—6

Abel, Christopherson, Drainville, Harrington, Mammoliti, Ward, M.

The Chair: I thought I was going to have to break a tie there for a second.

Mr Tilson: On a point of order, Mr Chair: I do not think Ms Harrington was in her chair.

The Chair: I think she is a member of the committee.

Mr Mahoney: We need an expert opinion, if you do not mind.

Mr Tilson: My position, Mr Chair, is that she is sitting, I suppose normally where the minister would sit, as the parliamentary assistant, and she is not sitting as a member of this committee. In fact, her sign marker is at the end of the table and that is where she normally sits. Otherwise, Mr Chair, the New Democratic Party would have to have a replacement for Ms Harrington.

Mr Mahoney: We have a tie vote and you have to decide, Mr Chair.

The Chair: I thought for a second I was going to have to do that.

Ms Poole: Mr Chair, make me feel good. What would you have voted?

Mr Mahoney: Don't answer that.

Ms Poole: This is not market value, Mr Chair.

Mr Turnbull: Your future and that party's depend on this.

Ms Poole: Whose, mine or his?

Interjection: Both.

The Chair: I think the vote was conducted in order and Mrs Harrington is a member of the committee and has the right to vote. Basically the rules are, if there are replacements, there is an appropriate time for the replacements to get their names in to the clerk.

Mr Tilson: You mean to tell me that a member of the committee can sit anywhere in this room and still vote?

Interjection: At the table.

The Chair: No, they cannot sit in the back, of course, but at the table, and the parliamentary assistant is allowed to represent the minister and give information and—

Mr Tilson: I quite appreciate that, but I guess my question is, I do not look at that, where she is sitting, as a member of this committee. She is sitting in her capacity as the parliamentary assistant.

The Chair: And as a member of the committee.

Ms Poole: Mr Chair, before we proceed with 100u, I have a further amendment to make, which would be 100tb—tb, as opposed to ta, which just got defeated.

The Chair: All right. Would you care to make your amendment, Ms Poole?

Ms Poole: Yes. While this is being distributed to members, I will read it out for their information.

The Chair: Ms Poole moves that section 8 of the bill be amended by adding the following section to the act:

"100tb(1) In this section, 'economic eviction' in respect of a tenant occurs when the tenant is forced to discontinue a residential tenancy because of a rent increase that the tenant cannot reasonably afford to pay.

"(2) The minister shall, within 30 days of being asked to do so by a tenant, give the tenant priority on the waiting list for housing provided by the Ontario Housing Corp if, in the opinion of the minister, the tenant has experienced economic eviction.

"(3) The minister shall, within 30 days of being asked to do so by a tenant, make reasonable efforts to ensure that the tenant is given priority on waiting lists for co-operative housing and any other non-profit rent-geared-to-income housing other than that provided by the Ontario Housing Corp if, in the opinion of the minister, the tenant has experienced economic eviction."

You can explain your motion in more detail, if you wish, Ms Poole.

Ms Poole: If I had a dollar for every time the words "economic eviction" were used on this committee, I would be in a substantially wealthier position than I am today. It was used repeatedly by members, without definition or without qualification as to how to deal with economic eviction.

It would seem to me that we have provided in Bill 4 that the landlord has a certain responsibility towards economic eviction and in preventing same. I also feel that government has a role to play, and via my amendment the minister would be responsible for ensuring that tenants who had been economically evicted were put on the priority waiting list of the Ontario Housing Corp, which, as you know, the minister has the capacity to do, and second, for instances where there is co-operative and non-profit housing which may not be funded directly by the province so that the minister could not directly make provision to do so, the minister should make reasonable efforts to place that tenant who has been economically evicted on those waiting lists as well.

1610

There is a precedent for the priority on the waiting list for the Ontario Housing Corp. Under the previous government, the Liberal government, we gave priority on Ontario Housing Corp waiting lists to women who had been assaulted and were victims of domestic abuse. Those women and their families were put on as a priority, and I certainly not only wholeheartedly agree with that, I wholeheartedly endorsed it at the time and thought it was an excellent move on behalf of our government. I would think it would be incumbent on the NDP government, which has expressed great concern about economic eviction, to make a provision, particularly with relation to Ontario Housing Corp, to make it possible for a tenant who has been economically evicted to have that same kind of priority.

Ms Harrington: It is a good try, I will tell you, but first of all, economic eviction we believe will be stopped by Bill 4. Bill 4 is stopping the large increases in rent. That is exactly what it is doing, and it is to stop economic

eviction. If there is any one thing that Bill 4 does, it is this. It is to stop economic evictions and large increases in rent.

Second, trying to give priority to these people—first of all, you have to determine those who are economically evicted, but the problem is in putting them on this waiting list, giving them priority. The problem is the waiting list is vast for both non-profit co-ops and Ontario Housing Corp and it is, I believe, unfair to evaluate, these people are more deserving than battered women or that—it is a terrible decision to have to make by anyone, to say that these people should be given priority over other people who have been on the list for six months or 18 months trying to get into subsidized housing.

In a perfect world this would be wonderful, but under the circumstances it is an unworkable thing to ask, I believe, with the already long waiting list, and to try to say some people are more deserving than others, and the real bottom line is that economic eviction is being stopped by Bill 4.

Ms Poole: I just find a great difficulty to believe that Bill 4 is the answer to all our prayers and is going to stop economic eviction.

Ms Harrington: It will not stop everything, but it will stop this.

Ms Poole: For one thing, there are many tenants who right now cannot afford to pay the rent they are, so even a guideline increase, which is a rent increase that the tenant cannot reasonably afford to pay, can move them into economic eviction. Bill 4 does not deal with reality, that there are many tenants out there who are not receiving help and they will not get relief from Bill 4 because they are already behind the eight ball, and to say that Bill 4 has stopped economic eviction is living in a fairyland.

As far as the waiting list being vast is concerned, I agree with that, but I have also asked questions in the House to the minister about increasing in situ placements which, as members are aware, are placements within their own building of tenants who are subsidized without having to move. This is something the minister could have done immediately in order to remedy a number of cases of economic eviction which we are hearing about today.

So I just have a great deal of difficulty in saying that Bill 4 is the answer to all our prayers with regard to economic eviction, or furthermore that the long-term legislation is going to be. It is going to require a comprehensive housing policy. But putting them as a priority on waiting lists, particularly for the Ontario Housing Corp, even if you said, "Well, the minister shouldn't have to do it for co-op housing," surely with our own body, the Ontario Housing Corp, there would be an onus on the minister to provide this kind of relief. And if he is not willing to provide this kind of relief, we have to ask why. If he is truly interested in protecting tenants and in dealing with the issue of economic eviction, this is his opportunity.

Mr Tilson: Without sounding repetitive to Ms Poole but unfortunately George is not here—

Ms Poole: Oh, he is coming.

Mr Tilson: Well, then, I will try and say my word before George arrives.

Ms Poole: But he did not hear me, so that is okay. You are not repeating anything George heard.

Mr Mammoliti: Are you talking behind my back?

Mr Tilson: This question of economic eviction was a standard question of the New Democratic members of this committee throughout the public hearings. Almost every tenant group that appeared before us they asked that question as to the issue of economic eviction, and Ms Poole is quite correct, it was asked over and over, and all of a sudden we are out around the province trying to deal with the problem that is created by this bill and I hear the parliamentary assistant not only saying it is not a proper amendment but simply saying that Bill 4 is the answer.

Bill 4 is not the answer, as has already been indicated. Rents are continuing to increase. Tenant after tenant has told everyone in this room, either in this committee or privately, that they cannot afford the rents that are being charged in many situations. The number of people who are paying vast amounts of their income, 30%, 40%, 50% in many cases, towards rent is astounding, and yet as a result of Bill 4, that problem is continuing to escalate and will continue to escalate. This government is not addressing that problem, it is allowing it to go, to rampage on. I mentioned to this committee before that there are tenants in my own riding, particular senior citizens, who have fixed incomes and these increases are continuing, as set forth by the New Democratic Party, and they are being forced to leave their apartments because of economic eviction. They simply cannot afford to stay where they are because of the rents that are being charged. I simply cannot understand Ms Harrington's position when she says that Bill 4 answers that.

Clearly, this government has been, with respect to dealing specifically with the amendment and indicating the recommendation that those people who are being evicted—this is an effort to deal with the issue of economic eviction. The New Democratic Party obviously does not care. They have not put forward any amendment, and they could not care less. They are just saying the answer, "Oh, well, we'll deal with it in our permanent legislation, which we'll see." So far the green paper does not really seem to deal with that, but we will wait and see. Meanwhile we have Bill 4 and meanwhile we have tenant after tenant being forced to leave their apartments as a result of this problem.

It has been quite apparent that this government intends, as one of our representatives to the committee said, to make housing a public utility. I think it is time that if that is the intention of the government, the New Democratic Party, then it should put its money where its mouth is and tell us, where is it going to get the money to do these things? They are saying that they are going to increase the non-profit housing, and that is admirable. This motion, of course, will assist individuals who are being forced out, but I think not only is that an effort to deal with it, but it is now time to tell us where the government is going to get the money to do all these things, other than just leaving the door to find whatever they can.

I assume that if the government members are going to vote against this amendment, they are simply saying to tenants who are being forced out by economic eviction: "Tough luck. Find whatever place you can. We're not going to help you. We have no recommendations. Look at our green paper. We don't have any recommendations. Look at Bill 4. We don't have any recommendations. In fact, the rents are going to go up." So I would ask the New Democratic members of the committee to support the amendments and try and deal with this problem.

1620

Mr Brown: Obviously I support Mrs Poole's amendment.

Ms Poole: I told him so.

Mr Brown: It seems to me that one of the major issues of the hearings that we have just gone through has been economic eviction. We have heard it time and time again, that this is the reason for Bill 4. We have had absolutely no statistics, no information about how many people will be affected. It might have been interesting to know, for example, if Bill 4 were in effect, what difference from Bill 51 that would make in terms of the number of economic evictions. But that is hard to know, because the government has not seen fit to define economic eviction. We do not know whether an increase in payment on your lease on your BMW means economic eviction. I say that kind of sarcastically, but I do not think those are the people whom we are trying to protect, nor would anyone in this room really believe that it is an economic eviction to move from a \$1,700 apartment to a \$1,500-a-month apartment.

One of the legitimate questions I think the opposition has asked through this entire process is: "What is economic eviction? How many people will be affected favourably if Bill 4 goes through as opposed to how many people would have been affected if Bill 51 stood the way it was?" We have to remember that Bill 51 represented an average increase in this province of 5.8%, hardly the kind of number that would suggest to the people of Ontario there were going to be huge amounts of economic evictions.

When you start looking at that, you start to recognize that the government's case has been pretty shaky all the way through here and that perhaps it is really a political agenda that has not much to do with economic eviction but has to do with their famous promise in the election. "New Democrats would bring in rent control," the Agenda for People says. My colleague Mr Mahoney would call it the agenda for power rather than people. "That means one increase a year based on inflation. There would be no extra bonuses"—I like the choice of the word "bonuses"—"to landlords for capital or financing costs. It's simple, it's fair, and it avoids bureaucracy which has frustrated both tenants and small landlords."

I would like to propose that there should be an unfriendly amendment to the Agenda for People, and that unfriendly amendment to the Agenda for People, which I think should be made retroactively—

Mr Drainville: Point of order, Mr Chair.

Mr Brown: I am not a member of your party, is that the problem?

Mr Drainville: Thank God. I would just like to say that if we are entertaining motions to amend the Agenda for People, it seems that we should perhaps move to more congenial surroundings, like the caucus room of the NDP. It obviously does not make much sense to have the honourable member going on about this particular issue.

Mr Brown: Mr Drainville may not share that opinion but over here we think there is a large credibility problem, that we view what you have said before the election and after the election to be slightly contrary. You are not saying the same things.

Mr Tilson: You have broken your promise already.

Mr Brown: The honourable member suggests they have broken their promise already, and that is clear.

The Chair: Order, please. I am going to allow Mr Brown to continue.

Mr Drainville: He already has, sir.

The Chair: He was talking on your point of order and I do not really see any need.

Mr Brown: I think that clauses of the agenda for power need to be amended. The first one obviously should be, "(a) If elected, the promise is null and void," and "(b) We would present a bill to destroy small landlords as an interim measure."

Mr Drainville: Point of order, Mr Chair: I keep on hearing that a motion is going to be made to amend the Agenda for People. Is this in order? I am just trying to understand the whole thing.

Mr Brown: I think it is a rhetorical device.

The Chair: I think the honourable member is being facetious.

Mr Drainville: And rather silly at the same time.

The Chair: The Chair cannot make that judgement.

Mr Drainville: No, no. I am glad we are televised so that the people can.

The Chair: Mr Drainville, I do not want to debate you or any other members of the committee. I do not mind the debate going back and forth between the members, but I am not going to participate in the debate with yourself or any other member of the committee. So far, I am not prepared to rule Mr Brown out of order. If we were to check Hansard as far back as I can remember, both in the Legislature doing clause-by-clause in committee of the whole House or in committee, we will find hundreds of examples of where members from all sides of the House chided one another for certain promises made and for certain positions taken and for a number of other things. I think that is part of the convention that has always taken place. Because of my own personal position, I am being as careful as I can to maintain my neutrality. I am listening as carefully as I can and we will just continue.

Mr Brown: Thank you. Continuing with the amendment to the Agenda for People, I think that (c) should be, "Following the destruction of investor confidence in the province of Ontario, we the New Democratic Party will mount an impressive disinformation campaign to blame

capitalist exploitation for the destruction of private housing stock.

"(d) As the class struggle continues, we will increase our funding for food banks.

"(e) Food banks will be required to distribute free blankets to the growing homeless."

The Chair: Mr Brown, you are going to relate all of this back to Mrs Poole's amendment?

Mr Brown: I was about to say very carefully. I think it is clear that our party sees in the defeat of every amendment put before this committee in the interest of tenants, in the interest of tenants' protection, in the defeat—or the impending defeat, I suspect—about this economic—

Mr Mammoliti: Point of information, whatever you want to call it.

Mr Brown: They are touchy over there.

The Chair: Mr Mammoliti has a point of order.

Mr Mammoliti: For the record, not every amendment has been defeated. The honourable member has said that every amendment has been defeated. Again, not every amendment has been defeated.

Mr Brown: Thank you, Mr Mammoliti. I correct myself. I forgot that you supported one of the 12 amendments for the—

Mr Mammoliti: I too am glad that this is on TV so that the people can witness exactly what we are witnessing here as a government.

Ms Poole: Keep talking, George.

Mr Brown: We are all for it, George.

This amendment deals particularly with economic eviction, the total reason that the government—well, at least the major reason the government has given for this. It protects tenants not at all, because as many people have said before this committee, whether they are tenants or landlords or whatever, about 30% of the tenants in this province cannot afford the rent they are paying. What we on this side are asking is for you to support this amendment because that will force you, the government, to deal with the fine economic eviction so that the people of Ontario understand that. It will force you to deal with the real problem, and the real problem is incomes. It will force you to do that.

Before you get too excited, I was a little bit dismayed to hear the Housing minister mention the transfer payments to the provinces by Mr Wilson, the federal Minister of Finance. We were upset by the fact that the transfer will not increase at the rate we would wish to this province, but we must remind members that a government has to set priorities. This seems to be one of the government's priorities and we would hope that even though the lack of transfers by Mr Wilson to Mr Laughren is not what Mr Laughren might hope, he will create the necessary housing programs to help the 30% of tenants who cannot afford the rents they are being charged today, let alone even a statutory increase.

1630

We cannot see a government merely passing the buck. We want to see the government support Mrs Poole's

amendment so that people who do have the problem of economic eviction will be dealt with, so that we can provide the needed housing to the people of Ontario who really do need it and that the government really acts in comparison to its rhetoric, it does what it said it was going to do, and that is protect tenants. We want you to accept the second out of the 12 pro-tenant amendments this party has presented and move forward with that. We do not think that is too much. We know there is a problem with economics, that people cannot afford the accommodation they are presently living with. What we want you to do is to come forward with a total housing program that will do that, and one good start would be voting for this amendment this afternoon.

Mr Turnbull: I too support Miss Poole's amendment. We have heard in the submissions before this committee from Stuart Thom that 33% of the people in Ontario cannot afford the rent they are paying. When we talk about economic eviction, and it is a term which was brought up repeatedly by the New Democratic members of this committee during the course of the committee hearings, we know that it is the straw that broke the camel's back. There are many people who cannot afford their rent now. The PC party has consistently suggested that we believe that shelter allowances would be appropriate, and Stuart Thom, who is surely the most unpartisan person whom we have heard at all of these hearings, very clearly pointed out that after having spent, I believe, \$3 million of the province's money studying this problem he has established that one third of all tenants cannot afford the rent they are paying.

Given the fact that the NDP has so consistently spoken about economic eviction, it seems reasonable that it would want to support Miss Poole's amendment when this goes to the heart of certainly what this side of the House is in favour of, and that is protecting people in need. This amendment certainly directly addresses that imperative. It may not be a perfect solution ultimately, but it is a solution which is urgently needed, and I emphasize that it is the straw that broke the camel's back. Yes, you might be limiting the amount of increases. It does not take away from the sheer logic of the fact that many people cannot afford to pay their rent now.

I see old people in my riding who are on fixed incomes and they live in fear of any rental increases. They are already above their heads. They are on fixed incomes and because of the way we have had inflation in this country their base is eroded. We have got to protect those people more than anybody else because these are the people who built our country.

I find it absolutely inconceivable and extremely disappointing that my colleagues in the NDP on this committee will not support this amendment. It is very clear why it is put forward. It is to protect people in need.

The Chair: Thank you, Mr Turnbull. As we await for Mr Drainville's return, maybe Mrs Harrington and then Mr Tilson.

Ms Harrington: I thought I would make one last statement, and that is that over the last few weeks we have all seen together there have certainly been a lot of problems

that we know Bill 4 is not going to answer because it is merely a temporary piece of legislation, a stopgap measure to stop the rent increases in their tracks. We have said, over and over again, that all of the answers, the solutions, have to come in the long-term legislation. But if there is only one thing that Bill 4 does, or definitely attempts to do, it is to stop rent increases of over 5.4%.

I believe we would agree, by definition, that economic eviction is having to leave your apartment or your home because of large rent increases that you cannot afford. I would just like to say very clearly that is what I believe is the one thing that Bill 4 is trying to do, is stop economic evictions.

Mr Turnbull: But we know that the average amount of household income expended in this province on rent on apartment buildings is approximately 17%, so what you are doing is you are turning your back on the people who are absolutely swimming in the cost of accommodation, which surely undermines what you certainly purported to stand for in the last election and helps the people who are leasing their BMWs, as was suggested before.

Ms Harrington: I think I have stated clearly our position on Bill 4 and what it is doing.

Mr Turnbull: I think you have.

Mr Tilson: I have a question for Ms Harrington in her capacity as the parliamentary assistant. I guess I would like some elaboration on your statements that Bill 4 is dealing with the economic eviction issue, specifically when we do have facts that 30% of tenants cannot afford what they are paying, they cannot afford it. If that is a fact, and it is a fact, then I guess my question to you is, during this breathing space, as you refer to it, or as the NDP refers to it, how do you intend to assist the tenants who are suffering under these circumstances and cannot pay these rents? This amendment deals with that; you are not prepared to support that amendment. If you are not prepared to support this amendment, what does the government intend to do during this moratorium period?

Ms Harrington: Over the past little while we have heard both opposition parties try to change this bill in several ways, and one of the ways is to allow more increase than the 5.4% and certain other, what we call extraordinary operating, costs to be passed through.

Mr Tilson: But my question was not what your interpretation is as to what you are trying to do; my question is what your party intends to do during this two-year period—not your interpretation of our amendments. We have heard those. You have voted against most of them.

Ms Harrington: Yes, that was my preface.

Mr Tilson: My question is, what do you intend to do about these people who cannot afford these increases during this two-year period? Anything?

Ms Harrington: What I was about to say is that if we had listened to the opposition parties, if we had passed some of the amendments the opposition parties wanted us to pass, we would be economically evicting many more people. Now, getting back to your question—

Mr Tilson: Yes, please.

Ms Harrington: —that in the past people have been economically evicted, to me that means that you are paying maybe 30% of your income, or maybe 40%, you are struggling, you are paying 50% of your income on housing, you are barely making it and then you get a rent increase of, say 10%, and you cannot afford it. You have been, in the past, economically evicted. What we are doing now is stopping those rent increases. We are putting them at 5.4%, which we think people may be able to handle, so that they are not economically evicted from this point forward.

I do recognize that there are people right now, and in the past, who have been economically evicted, and what we do with them—I just had a sod turning yesterday out in Scarborough for new co-op housing. We are trying to deal with it. There are obviously many difficulties in getting intensified housing, putting apartments in single-family houses. Normally across this province the municipalities have not allowed that in the past. There are all kinds of different things we can look at to try to get more intensified economic housing and apartments in this province.

What I am saying to you is that Bill 4 is necessary to stop further evictions. That is our position.

1640

Mr Tilson: Just so I am clear, Mr Thom is correct, your intent is then to continue to build non-profit housing and not encourage private enterprise?

Ms Harrington: I am afraid I did not say that. What I said was that certainly co-op housing and non-profit housing have an important place in this province, as they had under the last government, which instituted the Homes Now program. Co-op housing is people being in charge of their own units, forming a board to make those decisions, which is a very important thing, like home ownership, people who want to have home ownership but cannot afford it. There are many different options we should be looking at and I think the private rental market is going to be very much a part of the strategy of housing in the future.

Mr Tilson: Well, you are destroying it.

Mr Brown: In the short term, we see nothing in Bill 4 that really changes economic eviction very much.

Ms Harrington: I have to differ with you.

Mr Brown: I know you disagree with that, but one of the things that concerns us over here when we talk about that—and Mr Tilson just alluded to it—is that we all believe in co-op housing and all the other wonderful forms of non-profit housing in this province. They are good, they work, and that is fine.

Ms Harrington: They are one option.

Mr Brown: They are one component of the entire situation. The difficulty I think all of us over here are having with Bill 4 is that we do not see anywhere where this bill will increase the number of rental units in the province of Ontario, therefore giving tenants a choice. We cannot believe that this bill does it whatever. It has destroyed investor confidence. We think that will lead to economic eviction or eviction because the maintenance in the building breaks down and no matter how many orders you get, if the landlord does not have the money he cannot complete them.

We think this bill is going to hurt tenants, that there will be more, whether you want to call them economic eviction or evictions because the property is not in good shape whatever. We think that this bill will hurt it.

We want some confidence that the government think that private enterprise, private investment, has some place in the province of Ontario in order to be part of the mix of housing that we all should have. We want some indication because even in your green paper it does not talk one bit about how that could happen.

While we are dealing with economic eviction—

Mr Mammoliti: On a point of order, Mr Chairman. What does this have to do with the amendment? What does all this discussion have to do with the amendment?

Mr Tilson: You should listen, George.

Mr Mammoliti: Maybe the amendment should be read back to us. I do not know. Certainly to me it is off topic.

Mr Brown: Sure, we will do that.

Mr Mammoliti: Sure, of course you will do that. You want to stall. Of course you will do that, sure.

Mr Tilson: It might help you to solve this housing problem.

Mr Mammoliti: Mr Chairman, as far as I am concerned they are out of order.

The Chair: You are correct, Mr Mammoliti, they are out of order. You have the floor. That is correct.

Mr Mammoliti: Thank you. Let's deal with the amendment.

The Chair: I caution all members to make sure that the arguments that they are making and wish to make revolve around the appropriate amendment or section of the bill that we are discussing. I have to partially agree with Mr Mammoliti. Mr Brown, I was having difficulty understanding how you are going to fit all this in but I was willing to give you a chance. I would ask you to please weave this story into the amendment.

Mr Brown: Thank you, Mr Chair. I apologize and will tell you sometimes I was wondering how we might do that also.

I asked some questions of the parliamentary assistant and I would look perhaps for her response.

Ms Harrington: Very briefly, Bill 4 was not intended to make new housing starts in this province.

The Chair: Order, please. Mr Brown, I understand your question to the parliamentary assistant. We are going to have to keep our questions and our answers and our debates closer to the amendment as placed by Mrs Poole. I apologize if I seem rude in interrupting, but we are going to have to make sure that our discussion is weaved and our questions weave around the amendments and the section that we are dealing with. Could you please try that again?

Mr Tilson: Mr Chair, if I could speak on the point of order—

The Chair: Yes.

Mr Tilson: —with respect, I think Mr Brown is perfectly in order in talking about non-profit housing. Non-profit housing and co-op housing are a major part of this

amendment and I think Mr Brown is perfectly in order in exploring that issue with the government member.

The Chair: I appreciate that, Mr Tilson, and we were not really speaking on a point of order. We had already dealt with Mr Mammoliti's point of order. I just want to make sure that all the committee members have a certain comfort level in this committee. I am making a request of all members that when we are dealing with amendments or certain sections of the act, to try the best they can to ensure that we are in fact talking about portions of the amendment or portions of the section, or if we are not being that specific, how our comments in fact relate to the greater discussion. I am asking for the co-operation of all members.

Mr Brown: I think there is a consensus in the committee that the parliamentary assistant was about to answer some of the questions that I asked. She obviously agreed that they were relevant to the amendment.

The Chair: Yes, I appreciate that, but I am not going to repeat what I have already said. Let's just try to keep our comments to the amendments and the sections. Try again, try again.

Ms Harrington: I would like to just finish. First of all I made the statement that Bill 4 is not intended to actually make new housing starts in this province. I told you before that Bill 4 was intended to do. What Mr Brown has brought into the discussion is the whole strategy for housing in the future of Ontario. That is a very big question, a very big picture, and I would like to assure him, just very briefly, that as soon as we started discussing with the people at the Ministry of Housing the overall picture, and I think it was the end of October or so, we said, "Will you please start on a strategy for the whole of housing and see how the different parts fit in together and what the costs involved are and where we should be going?" That is in the works and I just mentioned it to the minister a few days ago. It is something we have to get busy on and it is happening. It is just that right now we happen to be dealing with Bill 4.

Mr Brown: Exactly, but what we are really dealing with right here is an amendment with regard to economic eviction. But you cannot see economic eviction as just a Bill 4 item. You say, "It's going to help." I say, "I'm not so sure." We are presenting an amendment that we think will help tenants avoid economic eviction. Although we are not in favour of many facets of Bill 4, we certainly think that tenants need the protection that this amendment will give, and we are finding it very difficult that the government will say: "Oh well, for a year or two we won't worry about it until the permanent legislation is in. It's okay if it happens for a year or two because we're going to fix it in the long term."

Ms Harrington: No, it is not happening.

Mr Brown: I guess our problem is we are wondering what is your difficulty with this particular amendment.

Ms Harrington: I think I have already stated clearly what the problem is.

Mr Turnbull: Mrs Harrington, I have to go back to the point that we have heard consistently. One of the most

often used expressions in the whole of these hearings has been "economic eviction," and I have to say it was used most consistently by the NDP members on the committee. It is not something that we dreamt up. This amendment seeks to certainly address this problem during the interim period. We keep on hearing, "Well, we'll address it once the permanent legislation comes along." But as I said, we have a problem now, and to the extent that we have had threats from the minister, "If you hold up the permanent legislation you'll have to live with this flawed"—and I certainly agree with him on that—"legislation."

We need to be able to cover this problem now, and this amendment covers economic eviction. Whether the people are economically evicted now or they are economically evicted after the permanent legislation comes in, they are still evicted and they still do not have a home. This amendment, which certainly fits, as I understand it, within the framework of what you can put in Bill 4, seeks to address this problem in the interim.

If we are talking about the other way, what do I say to my senior citizens who are at the brink now, or they are probably over the brink? It is the old story of the straw that broke the camel's back. They are probably over their head. What do I say to them now? Is it the same sort of story as we get about the 10.5% mortgages that the NDP promised in the last election? I guess it goes into the same category as the Premier says, "That was then, this is now." What are we going to do? Is this going to be another broken promise like the 10.5% mortgage that they have welshed on?

1650

Ms Harrington: I just would make a one-sentence reply. You are saying economic eviction is a problem, and yes, we agree. Our answer to economic eviction is Bill 4.

Mr Turnbull: Is what? Pardon me.

Ms Harrington: Is Bill 4. You are saying, "No, let's have this answer to economic eviction," and we are saying: "No, we have the answer. We don't want to do that Band-Aid solution."

Mr Turnbull: But, excuse me, this is not an answer to economic eviction. This is purely an answer to limiting the increases of rent. That does not stop people being economically evicted.

Ms Harrington: That is what economic eviction is, having your rent increase so that you cannot pay for it.

Mr Turnbull: We have heard from Stuart Thom that 33% of the people are beyond the point that they can afford it, and when economic eviction—it does not occur on the same day that they say, "Oh, I'm economically evicted." It is a slow, grinding process where people finally say: "I cannot hold on any longer. I've expended all of my life savings trying to top up my pension." That is why this amendment is brought forward by Ms Poole, and we are concerned. This is temporary legislation, but so was income tax temporary legislation, and we know what that has done for us. We want to protect the people now.

Ms Poole: Perhaps it would help if we itemized the two different types of economic eviction. There could be an economic eviction of a tenant who is facing a large rent

increase. Normally they can afford to pay the rent and it is certainly within their means, but the rent increase is large enough that that is going to put them over the top and they are economically evicted.

What we have that is far more prevalent than that and the case today in Ontario is the scenario where tenants are going to be economically evicted by the very fact that they have to pay even a statutory guideline because they are in desperate straits. They cannot afford to live at the rents they are now, and in some cases these rents are quite modest. We heard of cases in Sudbury where a tenant was paying \$250 for rent but could not afford that rent and was going to be economically evicted. Most of us would say, even in the Sudbury market, which would certainly not be as expensive as the Toronto market, that \$250 is not an unreasonable rent. So we have got a large body of people out there right now who cannot afford to pay the rent they are paying. They cannot afford to pay much at all, and they are not going to be helped one little bit by Bill 4.

I am saying it is time for the minister and for the government to put their money where their mouth is. If they truly want to address the issue of economic eviction, here is a method at their disposal, and I have already given you a precedent where it was done by the previous government in giving priority on the waiting list for the Ontario Housing Corp.

We have two separate components to this. One deals with in-house matters, the Ontario Housing Corp, where the minister does not need a new bureaucracy to do anything. It is at the minister's disposal to do that. We have a second scenario, which is admittedly more difficult for the minister, dealing with non-profit co-op housing—that is not directly within the jurisdiction of the minister—where we have just said he should make reasonable efforts to place them on the waiting list. I am quite prepared—in fact, I would recommend we vote on these separate sections separately.

But in the final analysis, why would you say to the Minister of Housing that he should not avail himself of the ability to give tenants facing economic eviction priority on the waiting lists? Surely that is not only something that is within his power, that is something he should want to do.

It would also give him a lot of ammunition when he goes to cabinet to fight for more in situ placements and more money for subsidized housing. It would give him a lot more ammunition to say, "The need is real, the need is there, and please help me deal with it."

I just cannot see how members of the government, in all good conscience, can fail to vote for this. I really cannot. It is beyond my comprehension. And if they think they cannot vote for this, then my next amendment is really going to blow their minds.

Ms Harrington: Putting more people on the waiting list really helps.

Ms Poole: It certainly helps, for one thing, in the minister recognizing that economic eviction is a problem beyond Bill 4. I would hope it would help this government realize that all the answers are not going to come in this long-term legislation. If I hear that phrase one more time, that

the answers are going to come in the long-term legislation I think I will do something that is quite berserk and violent.

Mr Turnbull: Go for it, Dianne.

Ms Poole: I have spent my life teaching my children that we will never have all the answers. In many cases, all we can do is come up with the right questions. But this is going to be nirvana, this long-term legislation. It is going to solve all our problems. Two years from now I am going to read back the words of the parliamentary assistant and the minister and members of the government in the House when they said this long-term legislation and Bill 4 were the answer to the problems.

You are unwilling to even consider it. I do not know why we are continuing to debate this.

Mr Drainville: As to this amendment, the parliamentary assistant has made it very clear in her remarks that within the government have certainly believed that something had to be done about economic eviction. We put forth Bill 4, not as an absolute response to that in the belief that was the answer to all things, but rather as an attempt to bridge the gap until we began to set up legislation which in itself at the end of the day will probably be flawed in some way too, because every legislation, even the best legislation, is flawed to a certain degree. The minister has indicated that we are in the process of doing that and that honourable members know that.

However, I find it very interesting how the opposition now clothe themselves as supporters of the tenants. Where was Bill 4 in the last government?

Mr Turnbull: We always have been.

Mr Drainville: Well, you would know it, we would not know it. Where was Bill 4 under the last administration, I ask you. We had Bill 51, which was antagonistic to the extreme to the rights of people.

Ms Poole: On a point of order, Mr Chair: Mr Drainville has asked a question which I believe deserves to be answered. He said, where was the Liberal government?

The Chair: Order, please.

Ms Poole: The Rental Housing Protection Act—

The Chair: Order, please.

Ms Poole: —responsible pet ownership; luxury rental regulations: I can go on and on about what we did for tenants.

The Chair: Order, please. That is not a point of order and Mr Drainville has the floor.

Mr Drainville: Thank you, Mr Chair. Again, it is fine to grandstand and make all sorts of indications of strong support for the tenants. It is interesting that in terms of the approach that we have made as a government, we have been consistent that we need to move in a new direction. We are willing to do that. When we asked for support on the part of the opposition, we did not get that support. We look at the consultation paper, no, we are here doing this and that is fine. The committee has decided and we sided with the committee.

Mr Turnbull: On a point of order, Mr Chairman: I have to point out that when the notes of the clerk were read

ack, we are doing exactly what was agreed between the minister and the two opposition critics. We are doing it in the sequence that was asked for, and that is just absolutely correct what Mr Drainville just said.

Mr Drainville: Is that a point of order?

The Chair: Order, please. I believe that my recollection indicates to me—

Mr Drainville: That is another point of hot air.

The Chair: —that there was a dispute on the interpretation of what was taken down by the clerk, and I think that often happens. Mr Drainville.

Mr Drainville: Thank you, Mr Chair. To proceed with what I was saying, the reality is that we have dealt with much of the substance in terms of Bill 4 of trying to ensure that tenants get a fair shake in this, and I have got to say that we believe strongly in Bill 4 and that we hope that in the process of having Bill 4 go through this committee—

Mr Brown: On a point of order, Mr Chair: As all members are very interested in the remarks of Mr Drainville, I would maybe request that he move adjournment and we can pick this up first thing at 10, it being 5 of the clock.

The Chair: It is past 5 of the clock.

Mr Drainville: It is indeed.

Ms Harrington: Would anyone care to vote on this amendment today?

The Chair: We would need consensus of the committee to extend our hearings today. Is there a consensus? There is no consensus. The Chair has no alternative but to adjourn the committee until 10 tomorrow morning.

Mr Drainville: I will be glad to begin tomorrow, sir.

The Chair: Thank you.

The committee adjourned at 1701.

CONTENTS

Wednesday 27 February 1991

Residential Rent Regulation Amendment Act, 1990, Bill 4 . . . . .	.G-3
Afternoon sitting . . . . .	.G-4
Adjournment . . . . .	.G-7

STANDING COMMITTEE ON GENERAL GOVERNMENT

Chair: Mancini, Remo (Essex South L)**Acting Chair:** Abel, Donald (Wentworth North NDP)**Vice-Chair:** Brown, Michael A. (Algoma-Manitoulin L)

Bisson, Gilles (Cochrane South NDP)

Drainville, Dennis (Victoria-Haliburton NDP)

Duignan, Noel (Halton North NDP)

Harrington, Margaret H. (Niagara Falls NDP)

Mammoliti, George (Yorkview NDP)

Murdoch, Bill (Grey PC)

O'Neill, Yvonne (Ottawa Rideau L)

Scott, Ian G. (St George-St. David L)

Turnbull, David (York Mills PC)

Substitutions:

Christopherson, David (Hamilton Centre NDP) for Mr Duignan

Mahoney, Steven W. (Mississauga West L) for Mrs Y. O'Neill

Poole, Dianne (Eglinton L) for Mr Scott

Tilson, David (Dufferin-Peel PC) for Mr B. Murdoch

Ward, Margery (Don Mills NDP) for Mr Bisson

Wiseman, Jim (Durham West NDP) for Mr Bisson

Clerk: Deller, Deborah**Staff:**

Baldwin, Elizabeth, Legislative Counsel

Hunter, Leith, Legislative Counsel

Richmond, Jerry, Research Officer, Legislative Research Service



19 1991

G-19 1991

ISSN 1180-5218

Legislative Assembly
of Ontario

1st Session, 35th Parliament

Assemblée législative
de l'Ontario

Première session, 35^e législature

Official Report
of Debates
(Hansard)

Thursday 28 February 1991



Journal
des débats
(Hansard)

Le jeudi 28 février 1991

Standing committee on
General government

Residential Rent Regulation
Amendment Act, 1990

Comité permanent des
affaires gouvernementales

Loi de 1990 modifiant
la réglementation des loyers
d'habitation

Chair: Remo Mancini
Clerk: Deborah Deller

Président : Remo Mancini
Greffier : Deborah Deller

Published by the Legislative Assembly of Ontario
Editor of Debates: Don Cameron



Publié par l'Assemblée législative de l'Ontario
Éditeur des débats : Don Cameron

Table of Contents

Table of Contents for proceedings reported in this issue appears at the back, together with a list of committee members and other members taking part.

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at (416) 965-2159.

Languages in Hansard

Hansard reports all debates in English or French as spoken by the participants. It does not translate remarks made in either language. Headings and tables of contents reflect language use.

Subscriptions

Subscription information may be obtained from: Sessional Subscription Service, Publications Ontario, Ministry of Government Services, 5th Floor, 880 Bay Street, Toronto, Ontario, M7A 1N8. Phone (416) 326-5310, 326-5311 or toll-free 1-800-668-9938.

Table des matières

La table des matières des séances rapportées dans ce numéro se trouve à l'arrière de ce fascicule, ainsi qu'une liste des membres du comité et des autres députés ayant participé.

Il existe un index cumulatif des numéros précédents. Les renseignements qu'il contient sont à votre disposition par téléphone auprès des employés de l'index du Journal des débats au (416) 965-2159.

Langues paraissant dans le Journal des débats

Le Journal des débats rapporte en anglais ou en français les débats, selon la langue utilisée par les participants. Les remarques faites en l'une ou l'autre langue ne sont pas traduites. La langue des en-têtes et de la table des matières reflète la langue utilisée.

Abonnements

Pour les abonnements, veuillez prendre contact avec le Service d'abonnement parlementaire, Publications Ontario, ministère des Services gouvernementaux, 5^e étage, 880, rue Bay, Toronto (Ontario) M7A 1N8. Par téléphone : (416) 326-5310, 326-5311 ou, sans frais : 1-800-668-9938.

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON GENERAL GOVERNMENT

Thursday 28 February 1991

The committee met at 1015 in room 228.

RESIDENTIAL RENT REGULATION AMENDMENT ACT, 1990

Resuming consideration of Bill 4, An Act to amend the Residential Rent Regulation Act, 1986.

Section 8:

The Chair: The committee is continuing its clause-by-clause review of Bill 4, An Act to amend the Residential Rent Regulation Act, 1986. Yesterday when the committee adjourned we were debating an amendment by Ms Poole to section 8 of the bill, section 100th of the act. During that particular time in the afternoon Mr Drainville had the floor and it was agreed by the committee that when the committee commenced this morning Mr Drainville would be allowed to finish his comments, so we are going to continue with the debate on Ms Poole's amendment and I recognize Mr Drainville.

Mr Drainville: I am glad to have had the evening to have rested and prepared myself for my remarks today.

As I was saying yesterday, this talk of economic eviction is an interesting line being put forward by the opposition parties. They do a great deal of speaking about the needs of tenants.

Mr Mahoney: Good thing somebody does.

Mr Drainville: We had a comment made by the opposition members as to the wonderful legislation that had been put forth by the previous government in terms of Bill 1 and other companion pieces of legislation. What we have seen in terms of this very issue of economic eviction, or all the vaunted comments about the wonderful pieces of legislation in the past, was that indeed that policy was a total and absolute disaster. In 1985, for instance, that government announced its assured housing program. In five years of governing, the waiting list for assisted housing doubled from 22,000 to 42,000 households.

Ms Poole: On a point of order, Mr Chair: On numerous occasions Mr Mammoliti said on a point of order that the member was not on the topic. I think we have been quite tolerant of what Mr Drainville was saying yesterday, but I would ask you to keep his comments to economic eviction.

The Chair: If committee members will recall, yesterday I informed Mr Mammoliti that I believe the committee should have wide-ranging discussion on the issues put forward in Bill 4. At that time I also asked members, during the course of their argument, when they are concluding their argument, to try to relate what they had to say to Bill 4. I am going to stand by my ruling of yesterday and I am going to ask Mr Drainville to continue.

Mr Drainville: Thank you, Mr Chair. I can take as many points of order as the honourable members wish to make, because we know the game that they are trying to

play, and that is to stall the clause-by-clause which we are going through; and it matters not a whit because the truth will out, and that is precisely what I am getting to at this point.

As I was saying before I was interrupted, in 1985 the Liberal government announced its assured housing program, and then in its five years of governing, I repeat, the waiting list for assisted housing doubled from 22,000 to 42,000 households.

Mr Brown: How many units were created?

Mr Drainville: Over 330,000 tenant families were hit with increases above the guidelines, and there was no great increase in private rental construction during that same period of time. The average house prices in Ontario more than doubled, because that government would not bring in a speculation tax.

Now let me say that in terms of—

Mr Tilson: On a point of order, Mr Chair: I am sorry. I happen to agree with what Mr Drainville is saying, you know. I do happen to agree with him.

Mr Brown: That is dangerous.

Ms Poole: So much for the coalition.

Mr Tilson: However, I am here to debate economic eviction. What the last government did I happen to agree with Mr Drainville on, but we are here to debate Bill 4, we are here to debate Mrs Poole's amendment on economic eviction. I have not heard that word mentioned once.

Mr Drainville: I mentioned it three times.

Mr Tilson: I would respectfully submit that the chair should rule Mr Drainville out of order and let us continue the debate on economic eviction.

Mr Drainville: Somewhere we have lost it, Steve. It is hard to support.

Ms Poole: With respect to Mr Tilson's point of order, I wholeheartedly concur. I can tell Mr Drainville that the minister asked me yesterday if we were going to be able to complete clause-by-clause today, and I said we were going to try very hard and it was my estimation we could. I can also put Mr Drainville on notice that if he continues in this line, I can guarantee we will not, because I can give three hours of argument to every five minutes of argument that you advance as to what is right and wrong.

Mr Drainville: Which you did yesterday.

Ms Poole: On this point, Mr Drainville, you are absolutely wrong. The debate has been quite limited on it.

The Chair: I appreciate the point of order raised by Mr Tilson and the comments that are being made by the members. I want to caution all members again that latitude is necessary to debate a piece of legislation. I think that is an agreed-upon fact. But at the same time, it is necessary for members to relate what they have to say to Bill 4, and

particularly to the section or the amendment to a particular section we are discussing. I am asking for the co-operation of all members. Mr Drainville, please continue.

Mr Drainville: Thank you, Mr Chair. Just in continuation of that point, I have to say that it reminds me very much of the comment that was made by an English economist one time, Walter Bagehot, who said: "One of the greatest pains in human nature is the pain of a new idea." Certainly we have seen that in terms of some of the comments that have been made by the opposition over the last couple of days.

I would like to say that in terms of economic eviction and Bill 4, what we have attempted to do is to provide in Bill 4 a way of dealing with economic eviction in the short term so that in the long term our legislation will deal with this issue.

I do want to say in my final remarks that the reality of the last couple of days has been stalling after stalling after stalling technique on the part of the people on the committee. There have to be some decisions made and the decisions that need to be made have to do with the fact that if they want us to be able to continue with the consultation paper at any point, then we are going to have to finish clause-by-clause. If the opposition does not want an opportunity to look at that document, then they need only just continue to push the kinds of questions which have been repetitive, which have been inflammatory—if I read to you some of the quotes I took yesterday from members of the committee, it would indicate the point. The people of Ontario will say, "What's happening here?" They saw it on TV yesterday. I wish we were on camera again today to see the repetitiveness and some of the inconsequential remarks that have been made, and the inflammatory remarks. I rest my case at that point.

Mr Mahoney: I will try not to be sucked into the inflammatory rhetoric that Reverend Drainville has—he seems to have a burr in his saddle this morning. I do not know quite what the problem is.

Mr Tilson: He probably did not sleep well last night.

Mr Mahoney: The realities are that we are dealing with an amendment, and to the parliamentary assistant, who might want to pass this on to the minister: I have really had enough of being lectured by (a) new members and (b) government members who are sanctimonious in their appraisal of the job that an opposition has to do.

As you will recall, Mr Chair, in our capacity as government we sat through many, many meetings and hearings with opposition members who are now your cabinet members, filibustering—one for 17 hours, I might add, in the Legislature—and yet we respect the fact that he had a job to do as an opposition member. And you, sir, and your colleagues should respect the fact that not only do we have a job to do, we have a duty. That duty is to hold you and your government accountable when pieces of legislation such as this come before us. You have no business, no business whatsoever, preaching to us about what we should or should not do. And I say that, with due respect, you might want to talk to some of your caucus leaders as to what your role on a standing committee in the Legislature

might be. It is not to monitor, and it is not to criticize the opposition, who are simply trying to put forth alternative points of view, alternative points of view in this case in an issue that we are dealing with regarding economic eviction.

Mr Abel: On a point of order, Mr Chair: Not once has Mr Mahoney addressed the motion that is before us—

Mr Mahoney: What was I just starting to do?

Mr Abel: So far all we got was a sermon on what we should and should not do.

Mr Tilson: It was a preamble.

Mr Abel: I would ask that we stick to the motion that is before us.

Ms Poole: Speak to your own member.

The Chair: Mr Mahoney, please continue.

Mr Mahoney: Mr Chairman, once again I take exception. We sit here and listen to a diatribe by this man, colleague telling us how to do the job.

Mr Drainville: You should have been here yesterday instead of walking out.

Mr Mahoney: Whether I should have been here or not is irrelevant to this issue, and I take damn strong exception to some rookie coming in here telling us how we should behave as members of the opposition. I wish, Mr Chairman, that if you will not, maybe the parliamentary assistant or the minister would admonish these people and tell them that we have got a job to do and we are damn well going to do it, regardless of what they say. I do not need to be told by Mr Abel or Mr Drainville or anybody else on that side how I will do my job, nor do my colleagues.

With regard to the issue—

The Chair: Could I just say to the committee that maybe now the committee realizes why as chairperson I believe it is important to give members the opportunity to have wide-ranging discussion. That gives members the chance to say things in their own particular way and to relate it back to Bill 4. As chairman, I do not think we would be doing an appropriate job if every time a member wanted to relate a separate issue to a certain section it would be disallowed. As a matter of fact, I do not think that is actually parliamentary, as far as I know.

So I just want to say to all members, we are going to have full and complete debate in this committee, and I just ask all members again, as you are making your points somehow during the course of your debate to relate the matter back to the section or to Bill 4 or to what we are talking about.

Mr Mahoney, you can continue.

Mr Mahoney: Mr Chairman, I would ask also that you consider the continual frivolous points of order that you will note if you look back over the Hansard of this committee. Very seldom have you ruled in favour of any of them being indeed points of order. What really they are is simply attempts on the part of the backbenchers on the government side to disrupt the flow of the opposition criticism.

I understand that they have difficulty when we talk about economic eviction—you will notice that I wove that in there, Mr Chair, for your concern—or whatever issue it is. I understand that the members are sensitive. I went

rough it. I understand how difficult it is to sit there and be told that you must agree with this government bill because it is your role and it is caucus discipline. I went through it in many bills. And I recognize that whether it is economic eviction or whatever, or whether it is the retroactivity, it is difficult to sit there and watch people break down in tears right in front of you and say: "Well, too bad. We're just going to steamroller ahead with this." I understand that, and I understand the frustration and the constant interruptions by members of the government backbench. I was there for three years. It is not a lot of fun, because you have no input into the decisions whatsoever. I know you do not and you know you do not. I am not even sure the minister does at times. I think it all comes out of the corner office of this pink palace that we habitate.

So I would like us to deal with the issues very much, and I would like you to perhaps have a discussion with the caucus leader or the whip of this particular committee on the government side as to whether or not items are points of order and to recognize the role, the very legitimate role that I was reminded of constantly by this Housing minister and other people when they were in opposition, that we must perform if we are to do our job. If we are going to sit here like lackeys, like these fellows have to because of caucus solidarity, then we are not going to be doing our job on behalf of the people and they are going to be pretty upset with us, and justifiably so. Parliamentary tradition calls for the government to be criticized. Suck it up and like it, guys. It is no fun, but it is reality.

With regard to economic eviction—

Mr Abel: Finally.

030

Mr Mahoney: I may go on at even greater length if the government members would like to see filibustering. I am going to tell you, Peter Kormos will be in second place in a heck of a hurry. We can go for days—days—and I will just keep on referring back to economic eviction wherever I think the Chairman is losing his patience. I can have lots of fun with this if you guys want to play that game, and it will be you that stalls this bill, not the opposition, and it will be you that the minister talks to and says: "Why did you do that to those guys on economic eviction? Why did you do that? Why didn't you shut your mouth? Why don't you do what you're told?"

With regard to economic eviction, this bill was—

Mr Dadamo: On a point of order, Mr Chairperson: Are we through with this tongue-lashing? Are we going to get to business?

Mr Mahoney: Well, you could start it up again, George.

Mr Dadamo: I am not concerned about a filibuster coming from Mr Mahoney, and I guess we get lecturing enough from you in the Legislature, but let's get down to business. We are wasting time. You have called us backbenchers, you have called us all sorts of names this morning. Let's get down to why we are here, and stop insulting us and stop insulting everybody else in this room. I suggest you knock it off.

Mr Mahoney: Is that a point of order, Mr Chairman?

The Chair: It is pretty close.

Mr Mahoney: Well, Mr Chairman, I am delighted to get down to business, but I do not think I am insulting everybody in this room, because I am not going to sit here when we are dealing with an economic eviction motion, or whatever we are dealing with, and be lectured by any of these people. They have no business doing that to opposition members and I, for one, will not take it, and I think that I can safely say that I speak for all the opposition members here in saying that.

Now with regard to the issue of economic eviction, I find it curious—Ms Poole's quote the other day was "passing strange"—that this government, with its stated protectionist attitudes, supposedly, towards tenants, even though Bill 4 we understand does nothing to protect the tenants other than a cap on the increase they are dealing with—and we have attempted to come in with some amendments that indeed would protect tenants. We have heard all the tears about economic eviction, and yet, wherever we went in the province, we kept asking people, "Can you give us some examples of economic eviction?" The only one in all of the hearings that I attended—and I guess I missed Windsor and maybe a couple here, but I believe I was at all of the rest of them—the only place that I recall someone answering that she indeed had an example of economic eviction was one of the deputants before the committee who said she was an example of economic eviction and gave us the story.

We all accept the fact that there will be hardship cases and economic eviction cases. We understand that and we think it is extremely important, and the government members I am sure would agree that it is extremely important, that where economic eviction situations occur, something should be done to help those people, whether it is capping the rent or whether it is helping the individuals or reviewing their situation or correcting an injustice perhaps by a landlord. I agree that something like that should be done.

If this government really means what it says with regard to Bill 4 and with regard to the issue of economic eviction, I find it hard to understand why it would not accept an amendment like this that really says that the minister shall, within 30 days of being asked to do so by a tenant, put them in a priority position on a waiting list. I do not find that so radical.

Here we have a waiting list, but we all know that if you look down that waiting list, in many cases the people on that waiting list do have accommodation. They are struggling through somehow, in many cases, not all. Some of them are in hotels or motels or whatever, and obviously they have to be given serious priority. But there are many situations where a person could be put on a priority waiting list of the Ontario Housing Corp.

In fact, something that we instituted in Peel was joining the waiting lists of the non-profit corporation of the regional municipality with the Ontario Housing Corp in creating one—I guess you could call it, it is a positive description for a negative situation—superlist or a super waiting list of the two corporations both in a position to provide housing units.

Now, why would the government be afraid to have the minister simply put that person on the waiting list if, in the

opinion of the minister, that person has indeed experienced the economic eviction that we have had thrown around so much as examples and justification for Bill 4? I find it very strange that they would do that.

Then the third part of it, that within 30 days you will make reasonable effort—we got into a battle the other day about what “forthwith” means. Well, what does “reasonable effort” mean? I think it is pretty obvious what it means, that he will make reasonable effort, best efforts, whatever you want, to ensure that tenant is given priority on the waiting list for co-op housing if there is any, for other non-profit or regional housing. You can work with the regions wherever you happen to be. There are some excellent non-profit corporations. I was president of Peel Non-Profit Housing for a year and on the board for nine years, and it is one of the finest housing companies in the land. There are others. In Ottawa there is an exceptional one. There is a very good operation right here in Metro Toronto. There are a number of them. In fact, we have even helped our government and our members actually start up some other non-profit housing corporations around the province by involving Peel Non-Profit with the individuals in the communities that wanted to do it. We used to sit and listen to great criticism of the housing policy of the government—which you will suffer through as well during upcoming years, I am sure—by members who did not even have non-profit housing corporations in their own ridings or in their own communities. We had an awful lot of hypocrisy in that area, but it is improving.

Under this amendment, the minister has all kinds of options. There are co-ops; I think half of the new government caucus probably at one time or another have been involved in a co-op, either in helping to start one or in perhaps living in one or in some way being involved in assisting co-ops to start up. Maybe I am even low at that. It probably is substantially higher than half. So we have got co-op housing, we have got non-profit housing, we have got Ontario Housing. They are there. We are not asking you to create some new bureaucracy. The waiting lists are there. We are not asking you to create some new system that would cost the taxpayers millions of dollars and require more bureaucracy and staff and everything else.

We are simply asking you that if indeed you are telling the people of this province the truth when you say that there are people being evicted due to economic circumstances all over the province—I mean, I have heard those statements—if indeed that is true, this is an opportunity for you to help solve the problem. It is not magic; it is a sensible solution put forward by this caucus, by my critic, Ms Poole, that even goes with enough latitude to say that “if in the opinion of the minister, a tenant has experienced economic eviction.” We are not asking for the minister to be put in a position where some arbitrary group or a tenants’ group or somebody can come forward and say, “Minister, you must do this.” We are giving him some discretion.

We heard yesterday or the day before that discretion is very necessary in legislation of this nature, and we are giving him that discretion. In both of these instances if, in the opinion of the minister, the tenant has experienced economic

eviction, he will either give the tenant priority on the waiting list of Ontario Housing or ensure that the tenant is given priority on the waiting list of co-op housing and any other non-profit, rent-geared-to-income housing other than Ontario Housing. So he has got it covered both ways.

I would seriously think, in closing my remarks to the really very well-thought-out and excellent amendment, would say that this is an opportunity for these folks to put their money where their mouth is. They do not even need to put their money; this will not cost anything. They can simply put their actions forward, their best foot forward and say, “We really do mean it when we say we’re doing this to protect tenants,” and admit that in Bill 4 there is nothing that protects tenants beyond a cap. This, under the economic eviction amendment, would clearly put forward a positive step. I would think that these folks would want to do that. I would think that if I represented a riding and was a member of this caucus, I would want to go back to my people and say: “We listened on Bill 4. We made some changes. We made some changes that we were very pleased with, that the minister agreed to yesterday. Even though the cap amount was a little lower than we would have liked, it was very reasonable and there was some listening.”

1040

Why now would you not listen to something that costs nothing, that is clearly in the interest of the tenants, that clearly addresses the problem that these people have been telling us is one of the major reasons for the implementation of Bill 4? I will find it extremely curious if these MPPs of this committee do not find their way clear to support this particular amendment, but probably a lot more important than whether or not I find it curious, I think the people of Ontario and the people in the tenants’ movement are going to find it extremely curious.

Ms Poole: The Liberal caucus put forward this motion on economic eviction because we felt that there was a need, first of all, to clarify what economic eviction is and second, to put a progressive, constructive step forward to deal with it. Every government member during the last four weeks asked questions of witnesses about economic eviction. The questions came up time and time again, so obviously you consider it a priority as well. We have placed this motion in two separate sections, one which deals with Ontario Housing Corp and one which deals with other types of non-profit and co-operatives, simply to give government members the option of voting for one and not the other. It is not only reasonable, it is also extremely practical and very doable for the minister to give people priority on the Ontario Housing Corp list. That is something that is right within his power, to establish that priority. The other one is a more difficult situation, and that is why we used the term “make reasonable effort.” There is no use in telling the minister that he must do something which he cannot enforce. That is why we did put it in two sections.

But to hear accusations that we have put this forward in an attempt to stall is ludicrous. If you look at the record of any contentious piece of legislation, to get it through in less than six days is unheard of. This is the ordinary course of events. In fact, in many cases with a bill such as Bill 4,

which has established wide-ranging controversy on both sides, six days, I think, is a most reasonable time within which to complete clause-by-clause.

Mr Drainville's assertion that Bill 51 was the cause of economic eviction for tenants is just ludicrous and it just does not hold up. Look at the facts. The average rent increase across the province last year was 5.8%, across the entire province. In areas like Ottawa it was less than 4%, well below the rate of inflation. Does this sound like it has been catastrophic? I am the last one to claim Bill 51 was a perfect piece of legislation. It was, as you know, cobbled together by landlords and tenants who for the first time in Ontario history came together in a wide-ranging consultation process and reached an agreement that this was something they could live with, and that this was something that they felt, if it was given time, could work.

Do not forget that because of the long consultation process and other factors, it was really 1987 before things started to get on stream with Bill 51. In a three-year process there was an enormous backlog created, primarily because virtually every unit in Ontario was brought under rent review under Bill 51, so it was difficult to see where the problems were. There were problems cropping up, but what was difficult was to say, "Is this happening because of the backlog?" Certainly some of the cases of economic eviction were not because the tenants could not afford the rent increase; it was because they could not afford to pay the retroactive amount owing after two years waiting for a rent review order. That was a problem created by the backlog. So it was not that the Minister of Housing was unwilling to get to amend Bill 51—it was his intention to do so in this term—but one thing for sure is that we wanted the backlog cleared first so that we could clearly see where the problems lay.

The assertion that we have stalled, I cannot believe that he is saying that. If I had wanted to stall, and if the Conservatives had wanted to stall this bill, I could have gone on every day for hours about what our government had done to protect tenants. I would have talked about the Rental Housing Protection Act; I would have talked about responsible pet legislation, amendments of the Planning Act, guidelines relating to the provision of affordable housing; I would have talked about the Homes Now program, agreements with municipalities such as Ottawa and Toronto; I would have talked about agreements with churches to provide; I would have talked about the fact that under our government we ended up in a state where we were providing more non-profit housing than all other provinces combined; I would have talked about the luxury renovation regulations. I could go on and on, but I am not going to because we are here to look at Bill 4 and ways in which we can improve it, ways in which we can recommend it back to the House. And we feel this economic eviction motion is the way in which it could be improved and which you could be proud of taking back to your constituents.

There is not a lot more to say. I have no intention of stalling this bill and stalling this clause-by-clause, and I am very glad that Mr Drainville did curtail his comments, so I am going to leave my comments at that.

Mr Tilson: I had not planned on making any further comments with respect to this amendment, which the Conservative Party is supporting. I will say, though, that I do resent the comments made by Mr Drainville with respect to the opposition parties' stalling tactics with respect to amendments. This particular amendment is an effort to try and resolve a very serious problem that has been raised from these hearings. The NDP has not provided any solution to the problem of economic eviction. They are the ones who emphasized this problem during the hearings. They asked question after question after question with respect to economic eviction, and they have done nothing to respond to the members of the public who have come to us with their concerns, the thousands of tenants whose quality of life is being destroyed as a result of this legislation.

I think that Mr Drainville is trying to muffle the opposition. This opposition—the Liberal opposition, the Progressive Conservative opposition—has every right in this world to make amendments and I resent the fact that he is suggesting that we cannot make amendments to this bill.

The Chair: Any further discussion on Mrs Poole's amendment?

Ms Poole: Mr Chair, I would call the question.

Mr Mahoney: Recorded vote.

The Chair: A recorded vote.

The committee divided on Ms Poole's motion, which was negatived on the following vote:

Ayes—4

Brown, Mahoney, Poole, Tilson.

Nays—6

Abel, Dadamo, Drainville, Harrington, Lessard, Ward, B.

Ms Poole: I have one other amendment to propose on economic eviction, which I would ask the clerk if she could distribute at this time.

The Chair: Thank you. As the amendment is being distributed, I would ask Mrs Poole to—

Ms Harrington: Mr Chair?

The Chair: I am sorry.

Ms Harrington: Could I comment? Because we have not had a chance to look at this amendment, could we stand it down until, say, after lunch? We would like to be able to discuss it.

The Chair: Mrs Poole?

Ms Poole: Mr Chair, I would propose that we debate this section now, and then if the government wishes to have a 20-minute time frame with which to discuss this—there is no certainty we will even be here after lunch. I believe there are only two other major sections to discuss. One is the conditional orders and the second is the mobile homes. These two were stood down.

1050

Mr Mahoney: Unless the government wants to stall.

Ms Poole: Unless the government wants to stall. I would propose that we debate this now and I would be

quite amenable if the government members then wished 20 minutes to decide on how they would like to vote on it.

Mr Tilson: The opposition is ready to terminate.

The Chair: Why do you not move your amendment, Mrs Poole, and we will see where the debate takes us and whether or not we need the—

Ms Harrington: I believe it has been the practice in the past that if an amendment has not been given to the committee with a little prior notice to have a look at it, it is common practice to stand it down until we finish the ones that we are already looking at. So, Mr Chair, I would ask that this be the case, that we continue with the business that I know the opposition wants to get finished and then we certainly would be most willing to look at this.

Ms Poole: The Chair is consulting with the clerk, so maybe what I will do is read it on the record and then the Chair can give his ruling as to whether it will be tabled.

I move that section 8 of the bill be amended by adding the following section to the act:

"100tc(1) In this section, 'economic eviction' in respect of a tenant occurs when the tenant is forced to discontinue a residential tenancy because of a rent increase that the tenant cannot reasonably afford to pay.

"(2) If, in the opinion of the Minister, a tenant has experienced economic eviction, the Minister shall, within 60 days of being asked to do so by the tenant, provide the tenant with a comparable rental unit at a price the tenant can afford."

The Chair: The Chair would just like a moment, please. I am going to adjourn the committee for five minutes.

The committee recessed at 1054.

1101

The Chair: The Chair is going to proceed to explain the ruling I am going to make in regard to Mrs Poole's amendment. Mrs Poole has moved an amendment to section 8 of the bill. Her amendment is section 110tc of the act. There was a request made earlier in the committee that this amendment be stood down until 2 pm this afternoon. We have checked the standing orders, and we have also checked for precedents, which we really did not have a long time for, but to the best of our ability we have concluded the following:

The legislation must be dealt with in proper sequence. Therefore, to stand down Mrs Poole's amendment and move to another section, we would have to have the unanimous consent of the committee. If there is unanimous consent in the committee to stand down Mrs Poole's amendment until 2 pm this afternoon, that is a decision that is made by the committee and the Chair will honour that decision. If there is not unanimous consent in the committee, then the Chair will rule that we must deal with Mrs Poole's amendment at the present time. During the course of dealing with Mrs Poole's amendment and prior to the vote on Mrs Poole's amendment, the committee or a committee member may ask for 20 minutes before the vote is taken to discuss strategy or to discuss thoughts on the particular amendment.

That is the Chair's ruling.

Ms Harrington: I understand, then, that it is no rule that any amendment that comes forward that has been given prior notice cannot be dealt with. What I would ask of the committee is that it is common courtesy that amendments have adequate notice to the committee, and if it does not, if the amendment is very immediate, such as this one, it is common courtesy that we set it aside until we deal with the other matters on our plate and we would be happy to come back to it.

Ms Poole: I would just say in response to Ms Harrington's comment that until this morning we had not made the definite decision that we would propose this amendment, because we very much wanted to see what the vote was going to be on our previous amendment on economic eviction, which we had felt was a very reasonable thing that the minister could have accomplished and which would have assisted tenants who were facing economic eviction. So I apologize for not giving longer notice of this, but I do not see that it is a matter which constitutes any further delay. I would propose we just debate the motion and get on with it.

The Chair: The Chair does not see unanimous consent to delay or set aside or stand down Mrs Poole's amendment. Therefore, I am going to ask Mrs Poole to continue her debate, to read her amendment for all concerned, have you—

Ms Poole: Yes, Mr Chair, while you were talking the clerk I did read it into the record.

The Chair: You did? I am sorry. All right, then, Mrs Poole, you have an opportunity to explain your amendment.

Ms Poole: During the course of debate on Bill 4, economic eviction has come up on numerous occasions. However, there has never been any indication by anybody as to who should bear the responsibility for economic eviction. Should it be the individual, should it be the landlord, should it be the government? Basically, that is what I want to debate with this particular amendment. If the government is saying that it is 100% the burden of the individual to deal with his or her economic eviction, let it now say so. If they feel that it is the landlord's responsibility to deal with a tenant's economic eviction, let them say that as well. But if they wish to say that the government shares a responsibility and onus, a burden, a duty, whatever word you wish to use, for trying to assist tenants who have been economically evicted, then I would like to hear that as well.

One of the things that has most concerned me about the Bill 4 hearings is that they have escalated tensions between landlords and tenants to an unbearable level. Unfortunately, I think it was needlessly so. For instance, we have the Fair Rental Policy Organization of Ontario which last fall had provided a proposal to the minister that the private sector would provide 20,000 units for the government to use for subsidy, which, as all members know, would be an extremely cost-effective way of dealing with subsidizing people who could not afford to live in their units and their homes. Instead of costing approximately \$2,000 in subsidy, as it does now for a new non-profit or co-operative, it would have cost in the vicinity of anywhere from \$100 to \$300 or \$400 per tenant who was subsidized, so it was

ry cost-effective. Unfortunately, because of Bill 4, CPO has now indicated that it intends to withdraw that offer and that it will not be providing that opportunity for subsidized housing at a very low rate.

10

So we are now back to the state where we have to make a decision: Whose responsibility is it to deal with economic eviction? Bill 4 will partially help with economic eviction, and I will say that quite candidly. It will help those tenants who are facing exorbitant rent increases. It will create other problems for other tenants. It will help some tenants with economic eviction, but it will not help all tenants. In fact, it will not help most tenants who live in fear of economic eviction. Not because their rents are unreasonable and not because of rent increases, but simply that too much of their income is being paid towards housing.

That is where I would like the debate, and certainly our caucus intends to focus on this particular motion. I do not hold out much hope of its being supported by the government. If you would not support our previous amendment, which did not go nearly as far, it would be, as Mr Cureatz used to say, passing strange if you did so with this, but it does provide the opportunity that the Chair has referred to, all members being able to voice their opinion, and in this case I would like to ask the question of all members, where is that responsibility going to lie?

If it is with private enterprise or if it is a co-operative effort between private enterprise and government, tell us, and also tell us what you are going to do to foster that co-operation. The sledgehammer effect that you have used in Bill 4 is certainly not going to help any kind of co-operation between landlords and tenants. So tell us how you are going to do it.

Mr Tilson: I have a question for Mrs Poole with respect to subsection 2. I supported the first amendment because I agree with the general principle of dealing with the issue of economic eviction, but I guess the question is at what cost. If there is no co-operative housing available or there is no non-profit housing available or if there is simply no housing available, no public enterprise housing available, my fear is, what does this mean? This says, "The minister shall...provide the tenant with a comparable rental unit." Our party is always concerned, of course, with the general cost to the taxpayer. Does this mean that if one of those situations existed, the government would be obliged, for example, to put someone into a hotel? I am looking particularly at the immigrants, the problems with the immigrants, problems that are being caused particularly in some of the larger regions. There are problems with housing in those areas because of that issue. What does that mean? What is the obligation of the government with respect to subsection 2?

The Chair: I interpreted it to mean that probably a direct payment from the government to the person in the unit would be the easiest. That is the way I interpret it, but maybe Mrs Poole could help us.

Ms Poole: That is correct, Mr Chair, and that would be how I would interpret it. Mr Tilson has raised two very valid points, one being the cost, the other being the imple-

mentation. Cost is a very valid concern, which is why I have said that in addition to providing new non-profit and new co-operative housing, it is also wise that we engage private enterprise in a co-operative partnership in making available units in existing buildings. Obviously it would have to be a direct payment and probably the most expeditious way, as the Chair has said, would be to provide sufficient funds for the tenant to stay in that particular unit. I guess it would take one step further than what has been done with the social assistance reform, whereby the true cost of shelter was recognized by the previous Liberal government to provide that kind of assistance. This would take it one step further, to the working poor or to those people who, for whatever reason, would either not qualify or not desire to be on social assistance.

Mr Tilson: Mr Chair, I thank you for that answer. Our party has suggested a form of subsidies to assist the poor and that appears to be the type of answer that Mrs Poole has given. The difficulty I have is I do not know what that means. Obviously there has to be some sort of policy developed, whether in guidelines, specifically—obviously there is so much money that the government would have to assist the poor, and I am getting back to the comments that were perhaps made by Mr Thom. It is just that I am concerned with subsection 2, that it may be a little too open-ended.

Mrs Poole has answered the question and I support her intent. However, unless there is some sort of clarification, I may be forced to vote against subsection 2 because I am reluctant in providing an open-ended policy with respect to subsidies. I believe there should be subsidies, but I think that whole concept of policies needs to be pursued by whatever government so that it is clear as to specifically what assistance would be given the poor. I do not know whether Mrs Poole can help me with that, but unless she can, I am going to be forced to vote against subsection 2.

The Chair: Hopefully during the debate on this amendment there will be an opportunity to directly answer your questions, either now or as we hear from other members. Are there any other members who wish to speak?

Mr Brown: I think this is an important amendment in that, as Ms Poole has already said, it really comes right to the point of this entire discussion on Bill 4. It really comes right to who is responsible. Is it the government, is it private enterprise, or is it a combination of both? Is there to be a partnership of co-operation developed between the two important elements in our society, government and private enterprise, to solve what is a significant problem in this province?

But in saying that, I think we should also come back to what is economic eviction, and we have some difficulty coming to a definition of that. Certainly, economic eviction can occur when rents go up too high. That is one form of economic eviction. Another form of economic eviction is not having a job, losing your job, being unemployed and therefore being unable to pay a rent that you were previously well able to afford, or maybe not to be able to make your mortgage payment on your house and to have to sell your house at times in this market at a loss. That

creates great problems. Economic eviction, at least in my view, does not occur solely when rents go up; it can occur for other reasons. The committee needs to be concerned about this problem and concerned about how we house the people who are unemployed.

I am not suggesting for one moment that this government is responsible in total for unemployment in this province. We know we are in a recession, we know that federal policies are probably not necessarily to our liking, we know the world is having a problem, we know that there is a war that is just being concluded, and those things all impact on us. But economic eviction is a broad policy. What I think we are trying to define here by this amendment is who has responsibility. I have heard phrases like, "For the greater good, we are going to do Bill 4." I have heard the government say this is going to protect people from economic eviction. We are a little sceptical over here about whether it really will or it will not.

We have even heard that housing should be put in the Charter of Rights, that it should be enshrined in Canada's Constitution. I am certain that someone who is at our sister committee, the select committee on Ontario in Confederation, has probably said that. He has probably gone down there and said: "Look, housing is a right. It should be enshrined in the Constitution."

That means to me, if that is what happened, that it is a societal responsibility, a decision that we as people in Canada have made. We have decided that it is a right, but that also, to me, means that it is an obligation of the society to provide.

What we are trying to determine with this amendment is, whose responsibility is it? Is it the private investor by himself? Is it one small sector of investment in this province that is responsible for this?

1120

We do not do that in any other sector that I can think of. We do not say to the automobile companies and the people who invest in them, "It's your responsibility to provide cars for everyone." We do not do that. I grant you this is a different issue, but nevertheless we cannot say to one sector of society, "It's totally your responsibility."

So what we are trying to do here is say: "Yes, it's a societal responsibility. We think that society has to be responsible for this. We do think it's a right, and we think this government has to assume that right. We cannot just have it on the shoulders of private enterprise." On the other hand, certainly private enterprise has a role and we would like to see that defined.

So I will be supporting Mrs Poole's amendment because I think it clarifies an important policy area. I think it clarifies the fact that this society, we people in Ontario, are concerned with people who do not have homes, who are evicted from their homes because of rental increases that are beyond their means.

But we are also concerned with those who have lost their jobs. We are concerned because we know that Bill 4 will be responsible for a large number of people being unemployed. We have heard them. We have had them come before this committee. We have heard the contractors who have lost contracts. It is not airy-fairy stuff. They

have been right here, sometimes with the contract in the hand, sometimes with the company and the union together making the presentation saying: "Look, we've lost the contract. We're unemployed. I can't afford any rent. I've lost my job." That is what they have said to us. So Bill 4 affects people and causes economic eviction, or at least conceivably does, by making people unemployed who would otherwise be gainfully employed.

I just ask the committee to consider this, and consider whose responsibility, because I think this amendment more than anything else is trying to spell out who has responsibility. If it is an obligation of our society, if it should be in the Charter of Rights, if it is for the common good, will government not accept the responsibility, because government represents the society?

So I am happy to support this amendment and I would urge the government to take whatever time it needs to come to that conclusion. I think it is most necessary if we are to be the kind of society that I think all members in the room wish us to be.

The Chair: Any further discussion?

Ms Poole: Just before we call the question, Mr Chair, I wondered if Mrs Harrington would like to make a comment, particularly in relationship to my question which is, where does the responsibility lie? And if it is to be a co-operative partnership, how is the government going to foster that?

Ms Harrington: Certainly a very big question, a very good question. We appreciate the intent of the motion say that housing really is a right; and I think that is something, if it has not been stated before, certainly over the course of the last four weeks in our hearings—and as Mr Brown has said, in the Constitution committee as well—that has become a common phrase and that we have to now look at very seriously and see, how do we address it? How do we enshrine this as a right? The various options that have been put forward are appreciated.

I would certainly like to tell you that before Christmas our local group of co-op housing people had a Christmas party and I was presented with a magic wand. This was my duty, then, to enshrine that housing was available in Ontario.

So I do have my magic wand, but beyond that, I will tell you that it is going to be extremely difficult to carry this out and we are looking for the help of all of you, all members of the Legislature, and of course all the people who have come before us in the last little while.

All I can end with and tell you very sincerely is that personally, myself, being with the Ministry of Housing, if there is nothing else I can do, I hope very much over the course of this next few months and the rest of this year that somehow we can get a genuine process in place in this province that really addresses the concerns of housing—as you say, the partnership between government and the private sector—to really look at the rental situation in this province and then when we finish that, over the course of the next four years, look at more than just the rental part of this, but housing overall in this province. And certainly, as you have mentioned before, there is no legislation that is perfect, but we are certainly going to give it a very good

honest try, with your help. So thank you for addressing this question.

The Chair: Mr Tilson, did you get your questions answered during the course—

Mr Tilson: Yes.

The Chair: Okay. Seeing no further members really wanting to debate this section, all in favour of Mrs Poole's amendment?

Ms Poole: Mr Mahoney would have voted for it.

The Chair: And Mr Mahoney would have voted for it. All contrary?

Motion negatived.

The Chair: Is it the wish of the committee that section 100t be carried in its entirety? All in favour? Carried. Okay 100u.

Ms Poole: Originally yesterday we had tabled the conditional orders provisions; it was supposed to go first this morning. I know we were in the middle of the economic eviction amendment so that we did not discuss it first thing. I wondered if it would be the consensus of the committee to deal with this. I believe this is one of the last contentious parts of the bill and the rest should flow quite smoothly.

The Chair: Okay, just give us a second here to get organized.

Ms Poole: The other point I would like to make with reference to that is that one of the amendments does refer to section 12, which follows 100t, so that if we were to want to continue with the balance of the bill and then go back to the rest after, which I would not recommend, but we could, then I would ask that section 12 be stood down.

The Chair: Okay, we are just trying to get ourselves organized as to all the other sections that were stood down.

Ms Poole: Just for the information of the committee, I would mention that if we are going to discuss this now or any time it will be necessary to reopen 100b of the act, subsection 7(1) of the bill and section 8 of the bill, subsection 300(5). Legislative counsel has indicated that to have the amendments which the government and our party have agreed to we would have to reopen those sections of the bill.

The Chair: As all members know, we need unanimous consent to reopen a section of the bill that has already been carried. Mrs Poole wants to deal with section 100b of the act. Do we have unanimous consent for that? Seeing unanimous consent, Mrs Poole, you can carry on.

Ms Poole moves that section 100b of the act, as set out in section 8 of the bill, be amended by striking out subsection (2)" in the first line of subsection (1) and substituting "subsections (2) and (2a)" and by adding the following subsection:

"(2a) This part does not apply to a rent increase proposed in an application made under section 74 before 31 January 1991 if the application seeks relief in respect of a conditional order made under subsection 89(2) that was made before 29 November 1990."

1130

Ms Poole: The purpose of this particular amendment is to exempt the conditional orders from Bill 4 and to put them back in Part VI of the act. Then the following three amendments will address things such as the cap and the date that this would be proclaimed.

The Chair: Any comments on Mrs Poole's amendment?

Mr Tilson: Just so I do understand, the purpose of this is to put all conditional orders back into the legislation? Is that the intent?

Ms Poole: I think legislative counsel has a comment.

Ms Baldwin: As I understood the instructions yesterday when Mrs Poole laid them down for me and the minister nodded in agreement, they wanted to cover the 18 applications that had been filed. That included the 16 that had been filed before 29 November and two others. I spoke with people in the ministry to determine the base of the filing of those other two applications. I am informed that the last one was filed on 30 January. That is why you see the date 31 January in it. So the effect of this is to take all of those applications made under section 74 before 31 January, which is the 18th, if the application sought relief in respect of a conditional order that had been made before the 29 November 1990.

Mr Tilson: So the answer to that is yes, all conditional orders that have been made will therefore not be voided by this?

Ms Baldwin: No, the answer to that is no, all conditional orders that have been made and upon which applications have been made before 31 January 1991 for the final order.

Ms Poole: Maybe it would help if I clarified that the ministry had originally discussed with me having 28 November as the cutoff date for applications for work that had been done pursuant to a conditional order. I had expressed concern about any potential conditional orders that were out there where they had actually completed the work but not had an opportunity to file by 28 November. The ministry came up with an additional two to add to the 16 that had filed prior to 28 November and it is my understanding that this now covers all conditional orders where the application has been made on or previous to 31 January 1991. So to the best of the ministry's knowledge, these are the only applications where work has been done and they have applied to rent review.

Mr Tilson: My concern is therefore that there are still situations where work has been done. I do not have the draft communication in front of me, but I do recall there was at least one where work was done based on the representations from the ministry that a conditional order would be granted. Now I gather that this would not cover that person and the work has actually been done.

If the government is prepared to support this motion, that is fine, but I submit it needs to go much further. I do not think this type of amendment goes far enough. Again, it is getting back to the comments made by the minister

yesterday and I guess it will be dealt with in a further amendment.

Ms Poole: In response to that, I do concur with Mr Tilson. There is obviously the possibility that there might be some conditional orders out there where they have not made application as of this day of February, but I go back to the premise that you try to protect as many people as possible and we are not aware of any instances where they would not be covered under this amendment.

I guess I would have to take the same position as I did on the retroactivity, when our Liberal amendment provided that any capital work that was done on or prior to 28 November 1990 would not be subject to Bill 4. We realize that there were landlords that were halfway through or partially through and then went ahead and completed the work, and they would not have been fully reimbursed by our amendment, but I would submit that this is an identical situation where it is difficult to ensure that every single person is caught. We have tried to catch as many who have actually completed the work and expended the money.

The minister had expressed a reservation about having it apply to a conditional order where money had not been expended, where the work had not been done or in fact even begun, and I did tell him that I would support him in providing only that conditional orders where the work had been done would be covered. So I share Mr Tilson's concern, but I think that the compromise the minister has asked for is a reasonable one and covers all known cases of which we are aware. It may be the best we can do.

Mr Tilson: It is difficult for me to oppose this, because certainly it goes a long way and I certainly support the intent of it. The difficulty is of course that the minister has directed the Ministry of Housing to tell people, when they make applications of any sort under the existing legislation, "Don't bother, because Bill 4 is going to be law." We have had many people come to this hearing telling us that they were told, "Don't bother," and some of them did not bother, because they had concluded that Bill 4 was going to be law.

So the difficulty I have is that the minister has caused irreparable damage in situations like this, and again I fear that this amendment does not go far enough. So although I support the general intent of it—I mean, it is certainly far better than what was there, but it does not quite go far enough. And it too is discriminatory to a degree, because there have been admissions by Ms Poole and by the legislative counsel that there are people who indeed will be caught as a result of their having either received conditional orders or the potential of receiving conditional orders. I am not in favour of discrimination, and in light of that, I feel we have no choice but to oppose the amendment.

Ms Poole: Mr Chair, if I could just on a point of order correct one thing that Mr Tilson said—

The Chair: It is not a point of order, but you will have an opportunity to make a correction.

Ms Poole: Then in my next speech, Mr Chair—you asked for it; the point of order would have been much briefer—the point I wish to make is that neither legislative counsel nor myself admitted that there were other cases

where it did not catch them. What we said was there potentially might be but we were not aware of any cases. This may well catch everybody. We do not know. All we can do is act to the best of our knowledge and belief, and hopefully this will cover everybody who has done the work, but it is probably the best we can do.

So I apologize, Mr Tilson, but while I can understand your concern and it is a very valid point, I do not see how we could make this amendment so that it will be acceptable to the government and acceptable to you. I am hoping that on balance, when you take a look at it, although it might not be a perfect instrument, you could see your way fit supporting the intent and the relief that it will provide for those who have been disadvantaged by the fact their conditional orders have not been allowed under Bill 4.

The Chair: Any further debate on this amendment? Seeing none, all in favour of Ms Poole's amendment? Opposed?

Motion agreed to.

The Chair: All in favour of section 100b, as amended? Opposed? Carried.

Now we need unanimous consent to reopen section 7. See unanimous consent.

1140

Section 7:

Ms Poole: I appreciate this is very difficult for the government. They are not used to voting for my amendments, so I will endeavour to prompt them somewhat.

The Chair: Let's not spoil it now.

Ms Poole moves that section 7 of the bill be amended by renumbering it as subsection 7(2), and by adding the following subsection:

"7(1) Section 83 of the act is amended by adding the following subsections:

"(3a) If the effective date of the first rent increase in the residential complex applied for is on or after 1 October 1990

"(a) the minister shall not order a rent increase for a rental unit, including a rent increase attributable to equalization, that is greater than 15% of the maximum rent for that rental unit; and

"(b) despite section 90, the minister shall not order a maximum rent for a rental unit greater than that proposed on the application.

"(3b) On 1 January 1993 subsection (3a) is repealed."

Mr Mahoney: What does that mean? Two years?

Ms Poole: Yes, it puts it into the same force and effect as the rest of Bill 4, so it would be that date—

Mr Mahoney: Moratorium?

Ms Poole: Yes, it would be 1 January 1993 or until such time as the minister brings in long-term legislation.

This amendment would provide the 15% cap that was suggested by the government as an equitable compromise. When it mentions equalization, that would only refer to equalization that was part of a conditional order. It would not refer to equalization in the terms that it is found in the balance of Bill 4. So this just provides that the minister can order a rent increase greater than the statutory guideline, up to a limit of 15% of the maximum rent, and clause

a)(b) provides the same condition about maximum rent being charged that makes it coherent with the rest of the act.

The Chair: Discussion on the amendment?

Mr Mahoney: Just a question of clarification: Should it read, "On or before 1 January," if the new legislation prepared in short order or as quickly as the government has indicated it would like to prepare it?

Ms Poole: No, because if the effective date of the first rent increase in the building is on or prior to 1 October, they are not caught by the moratorium to begin with. It could mean their application had been 90 days previous to 1 October. We only wanted to catch those conditional orders that are caught by the moratorium.

The Chair: Just to inform the committee of events as they take place, if we continue at the rate that we are going, there is an outside possibility that we will finish this morning. So at 12 o'clock I am going to ask the committee members for unanimous consent to extend the hearings by half an hour for this morning. That might be more favourable to the members if we are moving along at this rate, rather than coming back at 2 or 2:15 this afternoon for 20 minutes or 30 minutes, so I just ask all members to keep that in mind.

Mr Tilson: I have a question with respect to the amendment. It gets back to the issue I raised at the previous amendment, that I believe, as a result of the delegations that appeared before this committee, that there are a number of landlords who were told by the ministry officials, under the direction of the Minister of Housing: "Don't bother. Bill 4 is the law. Don't bother making your application." My concern with this type of amendment is, what about all those people who did not bother, as some might say? I do not know how many there are, whether there are a lot or whether there are a few, but I am satisfied as a result of comments that were made that there were some. Assuming that is correct, is it fair then that those people who were discouraged by the NDP government from proceeding with their applications, if the government supports this amendment, which Mr Cooke has directed his people to do, those people will in fact be caught and there will be no further discrimination?

So my question to anyone—I suppose the mover of the motion, Mrs Poole—is whether there should be some sort of time allowed for those people who were discouraged from making their applications to indeed apply, specifically if work has been done under the understanding that a conditional order would be granted.

Ms Poole: Since Mr Tilson invited my response to that, I say that I have no problem with the principle of that, of allowing a certain period for anybody who has already had a conditional order to submit his application. If Mr Tilson wanted to make an amendment, I am not sure this is the appropriate place because this actually does not deal with the applications. I think the appropriate place would have been in the last amendment, which we have already passed. I do not know.

The ministry might have some difficulty with this. They did mention they wanted a cutoff date, and I have no objection in principle, but I would assume it would depend

on them, whether they feel that the amendment I have proposed, my first amendment, is their bottom line or whether they would actually go further than that.

Ms Harrington: I will just comment that we have passed the appropriate section already with regard to applications, so it would not be appropriate in this subsection.

Mr Tilson: In light of that, I certainly do not intend to support this amendment. Anyway, just to emphasize my comments yesterday, I think it is terribly discriminatory for some unearthly reason, and this is a deal that has been cooked up. We had no part of this, we were not invited to participate in this with the minister and that is fine. For whatever reason, the minister chose not to invite our party to participate.

I will say that by the very fact that there will be a number of people who will not be caught by this legislation, it is clearly discriminatory. It is almost like Saddam Hussein saying, "If there are 100 people drowning, we're going to save 15% of them and the heck with the rest of them." That is what you call discrimination. And we do have landlords in this province drowning as a result of this mother of bills, and this is the first of the mother of bills. This is the start to the socialistic plan to take over housing. Clearly this legislation will be the start of the housing industry to become a public utility. It is the mother of bills and we will be opposing it.

I will say that we will not be in favour of this amendment because it is terribly discriminatory. I think the very fact that the minister has acknowledged that he goofed in not allowing conditional orders, I think that is a move, and hopefully he will reconsider the entire bill, but both Mr Turnbull and I will be opposing this amendment because of its discriminatory factor.

1150

Mr Mahoney: I want to first of all correct some impression that perhaps Mr Tilson has left on the table, that there was any kind of a cooked deal—no reference to the minister, of course. The reality is that we and our critics have an obligation as opposition to attempt to get our amendments and our ideas put forward, and what Ms Poole has done is very aggressively gone after the minister to get him to agree to her amendment, and that is quite appropriate. That is not doing a deal; that is simply working the process and doing the job as a critic. I want to congratulate her for getting the minister to see the light on at least the fundamental principle here.

Having said that, I have a problem with the 15%. I am going to vote for this, but I think it is unfortunate that an arbitrary figure was just pulled out of the air. Mr Cooke gave quite an eloquent speech yesterday. He got a little teary-eyed and talked about the seniors who were going to jump off the balconies of the building in his riding, and it was my suggestion that if those balconies do not get repaired they will fall off, they will not have to jump. He started to go on about how he has a conscience. I want to just tell you a little story. Actually, someone had told me that he did not have a conscience and we had a bet going. We bet \$100 and apparently now I am only able to collect \$15 on that bet. So he does have a conscience; it is only

15% of what it should be in reality, and I unfortunately cannot take the whole bacon home on it.

It is arbitrary. There are people who are going to be lost, but I guess half a loaf is better than no loaf.

Mr Turnbull: It is 15% of a loaf.

Mr Mahoney: The fact is 15% of a loaf is better than no loaf in this situation too, and let's not talk about loafing. But the fact is that there are people who are going to be damaged notwithstanding the fact that the Liberal critic in this case has succeeded in getting the government to recognize that it was wrong, that it was discriminatory. In fact, what this whole amendment recognizes is that the nature of Bill 4 being retroactive is so repugnant that even this minister had to recognize that there were cases. And it may be there was a certain legal requirement for that to take place as well.

Interjection.

Mr Mahoney: Do not worry, I will not talk us out of the amendment. But the fact is that there are people who are here this morning who are going to be badly hurt, but not as badly hurt as they would have been hurt if they did not have this amendment. So I think all credit belongs to our Liberal Party critic for getting this amendment through and I congratulate her for a job well done.

The Chair: It sounds like it is the mother of all amendments.

Mr Mahoney: We better be careful with this, you know.

The Chair: I know. I am just trying to have some levity.

Mr Mahoney: There are some mothers around.

Ms Poole: First of all, Mr Mahoney, thank you very much for your kind comments. I think it is probably one of the most positive things you have said about me in the last four years.

Mr Mahoney: And do not count on it coming back again.

Ms Poole: The first and last thing.

Mr Mahoney: That was enough.

Ms Poole: I guess I go back to the fact that when one is a member sometimes what you engage in is damage control. It is not the best of all possible worlds and sometimes you accept something which might be less than what you had wanted. I stated my personal preference yesterday, that if there was to be a cap, it be higher than this so that the bulk of the people who acted under conditional orders would receive 100% relief. My understanding is that if the cap had been between 20% and 25%, while it would not relieve all of those situations, it would have relieved the vast proportion of them and it would certainly provide more support and more relief to those who will not receive a great deal of support out of 15%. They have mortgages which they will not be able to refinance even with a 15% increase.

I do wish that there was some way in which we could have accommodated people to a greater extent with this. I could have submitted an amendment for 25%, but there

comes a point where you say: "This is pointless. Nothing going to be gained." The minister has been good enough at least recognize a compromise, and so while Mr Tils does have a valid point, I would say that if we save 15% from drowning it is better than standing on the shores and letting all 100 people drown. So this may be the best we can do.

Mr Mahoney: It's really a Patriot missile, isn't it?

Mr Tilson: It's a Scud.

Mr Mahoney: No, it's a Patriot missile taking out Scud.

The Chair: Any further debate on the amendment? Seeing none, all in favour of Mrs Poole's amendment? All opposed?

Motion agreed to.

Section 7, as amended, agreed to.

Section 8:

The Chair: Moving right along, we need unanimous consent to reopen section 100o. I see unanimous consent.

Ms Poole moves that subsection 100o(5) of the bill, as set out in section 8 of the bill, be struck out and the following substituted:

"(5) For the purposes of subsection (1), the minister shall determine the total rent increase that is justified and apportion the total rent increase under subsections 100f(2) to (6).

"(5a) Despite subsection (1), if in an order rendered void under section 100n the minister has allowed an amount in respect of a capital expenditure that was the subject of an order under subsection 89(2) made before 2 November 1990, the minister shall make a new order that,

"(a) subject to clause (c), adopts the findings made in the void order;

"(b) apportions the total rent increase amongst the rental units in the residential complex in accordance with section 82 and subsections 83(1) to (3);

"(c) subject to clause (d), provides that the rent increase for each rental unit, including the rent increase attributable to equalization, shall be the lesser of the rent increase allowed in the void order for that rental unit and 15% of the maximum rent for that rental unit; and

"(d) does not order a maximum rent for a rental unit greater than that proposed on the application."

Ms Poole: I will be eternally grateful if the minister ever does succeed in simplifying the legislation for rent review because I am sure all members are saying, "What does this mean?" Legislative counsel has informed me that this carries through the same policy for redoing the voided orders in section 100o that we spent a great deal of time debating yesterday. What it does say is that they do not have to go back to scratch and have a new application, that they will take the sections of the applications that are not void and proceed to process them without the applicants having to do it anew. It just brings it into compliance with 100o, which we have already passed.

Is that right, legislative counsel? More or less?

The Chair: Being 12 o'clock, I need unanimous consent from the committee to carry on. Seeing unanimous consent, please continue our debate.

Ms Poole: Those are my comments, unless anybody has any comments or questions.

The Chair: Any discussion on Mrs Poole's amendment?

Ms Harrington: I just want to thank legislative counsel for doing all of this overnight. Thank you.

The Chair: Any further discussion? Seeing none, all in favour of Mrs Poole's amendment? All opposed?

Motion agreed to.

The Chair: Shall section 100o, as amended, carry? Carried.

Ms Poole: Mr Chair, the next section of the bill that would refer to conditional orders is section 12, which we have not reached. I would suggest that perhaps it is timely, if we have unanimous consent, that we deal with section 12 now so that we can dispense with the conditional orders entirely.

10

The Chair: Yes, we need unanimous consent. It is granted? Okay, Mrs Poole.

Section 12:

Ms Poole: I would suggest that we only address subsection 12(1), and then the balance of 12, which does not relate to the conditional orders, we might deal with as we come to it in sequence.

The Chair: All right, that is understood.

Ms Poole moves that subsection 12(1) of the bill be amended by striking out "except sections 1 and 7" in the last line and substituting "except section 1 and subsection 7(2)."

Ms Poole: Forget my earlier comment, Mr Chair.

The Chair: That is all right.

Ms Poole further moves that subsection 12(3) of the bill be amended by striking out "Section 7" at the beginning and substituting "Subsection 7(2)."

So we are dealing with 12(1) and (3), right?

Ms Poole: Yes, we are dealing with 12(1) and (3), and legislative counsel has told me that this is to fix—

The Chair: I think at this point, on the advice of the clerk, we should do all of 12.

Ms Poole: Okay.

The Chair: Because what are we going to do with subsection 12(2)? Let's just discount what we had agreed on two minutes earlier. Let's just deal with all of 12. It will help us keep things in order.

Ms Poole: So would you prefer to deal with (1) and (3) amendments first and then deal with subsection 12(2)?

The Chair: Why do we not just do subsections (1), (3) and (2)?

Ms Poole: Subsection 12(1), I have no idea what this means, but I act under good faith on the advice of legislative counsel that this is necessary to fix the commencement date of this portion of the bill. If legislative counsel wants to elaborate, that is fine, but maybe we could all take them on good faith that this is necessary.

The Chair: Any debate on Ms Poole's amendment to subsections 12(1) and (3)? Seeing none, all in favour?

Motion agreed to.

The Chair: Shall section 12, as amended, carry?

Section 12, as amended, agreed to.

Section 8:

The Chair: We have to go back to section 100n. Shall subsections 100n(1) to (9), inclusive, carry?

We are just getting some last-minute advice here. Just give the Chair a second. We understand that there are a couple of amendments, government amendments, to be dealt with—

Ms Harrington: Section 8 of the bill, section 100n of the act, I move that section 100n of the act, as set out in section 8 of the bill, be amended by adding the following subsection:

"(4a) Any order made by the Divisional Court on an appeal from an order referred to in subsection (2), (3) or (4) shall be deemed to be void."

The reason for this amendment is that it clarifies that orders of the Divisional Court which result from an appeal of a minister or a board order which is voided by the act are also rendered void.

The Chair: We are just doublechecking the wording on that amendment. Give us a moment, please. I am going to ask the parliamentary secretary to reread her amendment. It is just a small matter of doing the amendments in order, and I ask the parliamentary secretary to place the amendment at this time.

Ms Harrington: Section 8 of the bill, subsection 100n(1) of the act, I move that subsection 100n(1) of the act, as set out in section 8 of the bill, be struck out and the following substituted:

"(1) This section applies to an order made by the minister, the board or a court under Part VI, even if made before the 1st day of October, 1990."

This amendment is made to change an incorrect reference to "this act" to "part VI" instead.

The Chair: Thank you. Any discussion on this amendment?

Mr Tilson: What court orders are we rendering void? There must be some examples, Colleen.

Interjection.

Mr Tilson: I mean specifically—there is a Divisional Court order, obviously. What does it say?

Ms Parrish: Actually, I am not aware of any Divisional Court orders that are there.

Mr Tilson: Why do we have them in there?

Ms Parrish: Well, because of the following circumstances: Whether or not you agree with the policy, and I understand that you do not, you would not want to have a situation where the administrative order was rendered void and any appeal under the hearings board was rendered void, but then you could go to the Divisional Court and have the whole thing rectified. So I have to say that I am not aware of any Divisional Court hearing that we are actually striking down. It is only that the potential is there

and in order to make the policy work you would have to follow it all the way up the chain. I understand you do not agree with the policy, but that is the legal reason for the section. But I am not aware of any Divisional Court orders that affect any orders caught by Bill 4. There are, of course, as you know, administrative orders.

Mr Tilson: When the limitation period has expired, do you appeal to the Divisional Court?

Ms Parrish: No.

Mr Tilson: No?

Ms Parrish: I do not think so, sir. Not to my knowledge, no.

Mr Tilson: Thank you.

The Chair: You are satisfied, Mr Tilson?

Mr Tilson: Yes.

The Chair: Thank you. Any further discussion on the government amendment? I am sorry, legislative counsel has some advice for us.

Ms Baldwin: Christina Sokulsky from the ministry has just pointed out to me that as a result of the motions that were just passed by Ms Poole, it would be appropriate to make a slight change to this motion. I want to read it out to the committee and ask if I can get committee concurrence to have the motion amended accordingly, assuming that that is all right with the parliamentary assistant. Do you mind if I read that out?

The Chair: I think we have concurrence.

Ms Baldwin: I would like it to reread as follows, "This section applies to an order made by the minister, the board or a court under part VI, other than an order to which subsection 83(3a) applies, even if made before 1 October 1990."

The Chair: Can you repeat that, please?

Ms Baldwin: Yes. This would involve inserting, after "part VI," "other than an order to which subsection 83(3a) applies." The reason for this is that we have just provided that some of these conditional orders will be dealt with in part VI and we want to make sure that they are not voided under this provision.

The Chair: Okay, does the committee understand the change that is being suggested by legislative counsel? After the words "under part VI," we need to insert, "other than an order to which subsection 83(3a) applies." Any discussion on that? All in favour of the amendment?

Motion agreed to.

The Chair: I believe we have another government amendment.

Ms Harrington: Yes, Mr Chair.

1210

The Chair: Ms Harrington moves that section 100n of the act, as set out in section 8 of the bill, be amended by adding the following subsection:

"(41) Any order made by the Divisional Court on an appeal from an order referred to in subsection (2), (3) or (4) shall be deemed to be void."

Ms Harrington: This amendment clarifies that orders of the Divisional Court which result from the appeal minister or board order which is voided by the act are rendered void.

The Chair: Any discussion on the amendment? All in favour of the amendment? Opposed?

Motion agreed to.

The Chair: Shall section 100n, as amended, carry? Carried.

Section 1:

The Chair: We had stood down section 1 of the bill. Any discussion on section 1 of the bill?

Mr Tilson: Subsection (1) or the whole section? I tabled an amendment to subsection 1(2) of the bill, mobile home issue.

The Chair: Shall subsection 1(1) carry? Carried. Shall subsection 1(2) carry?

Mr Tilson: Mr Chair, I tabled an amendment to subsection 1(2) of the bill. I would move that subsection 1(2) of the bill be struck out.

I realize that may be out of order. Is it simply a matter of voting against it?

The Chair: Yes.

Mr Tilson: So the motion would be out of order?

The Chair: Yes.

Mr Tilson: Then I would like to speak against the amendment, Mr Chair, if you will give me an opportunity.

The Chair: Please go ahead.

Mr Tilson: I do not know whether you are asking for a clarification on the subsection first, or are we bypassing all that?

The Chair: No, we are not bypassing it at all.

Ms Harrington: Shall I read that first?

The Chair: Please.

Ms Harrington: This is a technical amendment that clarifies that the Residential Rent Regulation Act of 1975 covers both mobile homes and/or single-family dwellings in land-leased communities and mobile home parks where the site is rented and the unit or structure is owned by the tenant of the site. The act also applies to situations where both site and structure or unit are rented. Because the section is a matter of clarification of the original policy intent, it is retroactive to 1 January 1987, subsection 2(2) with the exception of court decisions that have been made before 29 November 1990. Thus the Divisional Court decision made on this issue in Cartwright v Jutasi will not be overturned.

Just as further clarification, these types of dwellings, as far back as 1975, have always been part of this rent review and rent control and it is the intention to include these dwellings to continue the status quo.

Mr Tilson: I will try to be brief, because I think the committee discussed briefly this subsection several days ago. Our party's position I suppose stems from representations that were made to the committee specifically in the minister's home riding of Windsor. Obviously it is designed

to circumvent the Divisional Court decision of Cartwright Jutasi, which stated that rent controls do not apply to these types of homes. The green paper has stated that mobile home sites and land lease arrangements are under interministerial review. The minister has stated that in due course he feels this should be under separate legislation. I would concur with that and I feel that at this particular point this should be outside this legislation.

The difficulty I have with this legislation is that I think that the mobile home is quite different than the residential apartment or the basement apartment or the rental of a house. These mobile homes are generally owned by the tenant, in which case they rent the plot of land from the landlord and owner, and if there are difficulties between the landlord and the tenant, it really is as a result perhaps of Bill 4 or other legislation similar to it. It is most difficult for the tenant to move on. Ultimately the tenant has the ability to move out of the residential apartment building, but he or she does not with this type of unit. And of course it is very expensive for them to move. There are only a limited number of mobile home parks where their units can be placed, and I really feel that it is most inappropriate for this type of legislation to be in Bill 4.

We have all received submissions and correspondence. I will not go on from the remarks that I have made previously to the committee, but I would like to just read sections of a letter that some of us have received. It was a letter to myself, of which a copy went to Mr Nixon, Mr Harris and Mrs Poole, and it is a letter from Martingrove Village in Waterloo in which they speak in opposition to this specific subsection. It talks about requirements of renovating facilities that are within the trailer park to meet municipal and other government standards:

"Subject to certain conditions, which would lead to the required replacement of the existing hydro, water and septic sanitary system, these existing systems are approximately 30 years old and are recognized by me, as well as the municipal and other government authorities, as being very much in need of replacement. Engineering reports initiated by me confirm the need for replacement arises out of normal wear and tear.

"My inability to finance this essential capital expenditure may well result in the public health authorities"—and in this case the regional municipality of Waterloo—"issuing an order that the mobile home park be closed. The result of such an order would be to displace in excess of 200 people currently occupying the 78 homes on sites rented from me, many of whom are senior citizens. It should be noted that the existing mobile home park qualifies as affordable housing within ministry guidelines.

"The proposed new water, hydro and septic systems are designed to serve the existing park as well as the new expansion. When a water treatment system is added under his design to bring the system up to current MOE standards, MOE will require replacement of the existing distribution system, and these costs cannot be managed without appropriate increases in rent.

"Current rents average \$181 per month, which include \$50 per month for taxes and about \$40 per month for maintenance. This rental is far below rental rents and provides for

no more than a break-even point for me. Certainly there is no capacity in me to provide for the extraordinary capital expenditures of replacing existing services without an increase in rent."

The point of this letter and other submissions that we heard in Windsor—similar representations, because this is not a novel submission, it was made to us on several occasions—is that the mobile home site on rented land is a matter that should be out of this legislation. I think that the government is quite correct in studying this matter, as has been indicated to us, and it is under interministerial review, but if this legislation is passed, if Bill 4 is passed, there are going to be communities—and that is what these are, communities—that are going to be put in a very difficult situation, and there is no confirmation that they will be closed, but there is a possibility that this one might be closed, specifically if major improvements are required.

So I would ask the members of the committee to consider those comments and not support this subsection; in fact, the subsection should be deleted from the bill.

1220

The Chair: Any further comments on subsection 1(2)? Mrs Poole.

Ms Poole: Yes, Mr Chair. I do intend to be brief. Mr Tilson has outlined a number of the concerns with mobile homes, may I say, from two vantage points. One is the plight of mobile home owner tenants who feel that they have no options because they just cannot pick up and move if the rents become excessive, and they have outlined specific problems that they have had; for instance, if the mobile park home owner was building a new recreation centre and they would have to pay a portion of that as part of their rent for the land. There seemed to be a lot of friction in this regard.

On the other side of the coin, from the mobile park owner side of it, we did hear a number of representations which showed that they are really in a number of cases in dire straits. One presentation brought to our attention the area of municipal taxes, for instance. Currently, from what this presenter said, municipal taxes are levied to the mobile park owner for not only the land but also for the mobile home units that are on it, and then that park owner would have to go to each of the tenants on site and get their portion back to pay the taxes, and the sad thing about it is that if one of those tenants did happen to move without paying those taxes, it is the mobile park owner who is liable and in fact who could be stuck with paying the taxes on the building portion.

So there are obviously a number of issues—and those are just the tip of the iceberg—that make mobile homes very different than other renters under the RRRA and under Bill 4.

I do not believe that the government is going to support any type of motion to have separate legislation for it, apart from Bill 4. But I would very strongly recommend that they look at it as an option in the long term, that mobile homes, with their very diverse set of problems, should be dealt with in separate legislation which can recognize those problems and deal with them.

In the interim it is very difficult and I wish that very quickly legislation could be brought in that would provide protection on both sides, but it is probably not feasible.

The Chair: Any further discussion?

Mr Tilson: Just a point of order, and it is my inexperience on these committees, I suppose, that I am asking this question. I would like a recorded vote, but it does not appear that there is a motion; how does that work?

The Chair: Yes, shall subsection 1(2) carry? We can have a recorded vote.

Mr Tilson: Okay, I would like a recorded vote.

The Chair: Any further discussion?

The committee divided on subsection 1(2), which was agreed to on the following vote:

Ayes—6

Abel, Dadamo, Drainville, Harrington, Lessard, Ward, B.

Nays—4

Brown, Mahoney, Poole, Tilson.

Ms Poole: It sure is very difficult. This is the first time, I think, we have had a recorded vote when it was not my amendment.

Section 1 agreed to.

Section 8:

The Chair: Mrs Poole had tabled an amendment on 21 February in regard to clause 100e(2)(g) of the act.

Ms Poole: Yes. I believe this was my amendment that dealt with conditional orders, and I would withdraw that at this time. It is not appropriate that we debate it since we have dealt with the matter in another section.

The Chair: Shall the section, as amended, carry? Carried.

Section 8, as amended, agreed to.

The Chair: We need unanimous consent to deal with a government motion for section 6a of the bill. Do we have unanimous consent?

Agreed to.

Ms Harrington: Thank you.

Ms Poole: My, you are quick, Mr Chair. But yes, there is unanimous consent.

The Chair: Ms Harrington moves that the bill be amended by adding the following section:

“6a. Section 39 of the act is repealed and the following substituted:

“39. Members of the board shall hold office during pleasure.”

Ms Harrington: The reason for the amendment is this will permit civil servants to be appointed as hearings board members. This will allow the board to better meet its workload in order to speedily resolve outstanding applications. It will also provide greater flexibility in appointments. Currently, only the vice-chair of the board can be a civil servant.

The Chair: Any debate on Mrs Harrington's amendment?

Ms Poole: My understanding from conversations which, I think, a representative from Mr Cooke's office had with both Mr Tilson and me on this particular issue, that the board is very desirous of clearing up any backlog prior to any long-term legislation coming into place. The backlog actually has not been created by the board per se but by the fact there has been a backlog at rent review which is reflected in a backlog at the appeals board.

It is a difficult amendment in that the intent, I think, very desirable. We certainly want to make sure that applications are speedily resolved. There appear to be a few problematic areas about having civil servants appointed as hearings board members, and I am hoping that the ministry can perhaps correct these through a training process.

One is that rent review administrators, which I would presuppose would be the type of civil servants you would refer to who would be appointed to the board, are necessarily reliant on the operations manual in conducting the reviews. They have a different range of experience than members of the hearings board, and the hearings board, as you know, is quasi-judicial, so it reflects a degree of independence from the government. So there are two very different attitudes, two very different philosophies, as to how a rent review administrator would deal with a problem and how a hearings board member would deal with a problem.

But I will support the government in this motion, notwithstanding my reservations, simply because it appears to be the only alternative to cleaning up any backlog. There was an alternative, or a corresponding proposal, I might say, that was looked at to change the number on the panel or the option of choosing three on a panel instead of one but that was much more problematic, and I would think this is a better way to deal with it.

So my only comment, Mrs Harrington, is I hope that the ministry will take specific efforts to make sure that whomever they appoint, they do emphasize the independence of the board, the quasi-judicial nature, the fact that hearings are held de novo, and that they will have a great deal of discretion. In other words, I hope we are not going to appoint people who have been used to, and have minds used to working within a very rigid context.

1230

Mr Mahoney: You should inform the members of the NDP caucus of that.

Ms Poole: Behave yourself. We are almost through.

So I will support this amendment, but I would ask the ministry to take that into consideration.

The Chair: Any further debate on this?

Mr Tilson: Yes. There is no question that as a result of the threat of Bill 4 there are fewer applications to the board. I would assume that is the fact. Can anyone answer that? No one can answer that.

Mr Mahoney: Fewer things to apply for.

Mr Tilson: Yes. Presumably there is less activity, and because there is less activity, surely the list is getting shorter as opposed to longer.

I am just averse to hiring more bureaucrats, quite frankly. I mean, that was one of the concerns of the New Democratic Party during the election. If you have people

ere to serve the function and the list is getting shorter, why are we doing this? That is a question to anyone.

Ms Parrish: I would like to respond by saying that the hearings board experiences quite a lag in the process, because of course it only deals with orders that then come out of the administrative system and then go on. So there is a fairly significant number of cases that they still have; as they still have—I forget—the 130,000 units that are not caught by Bill 4 that will go through the administrative system. About 20% of those will go to appeal. So they probably have workloads to keep them going for the next, I do not know, two years before they would start to experience any diminution in their workload as a result of Bill 4, and that is because of the timing lag between administrative decisions and hearings board hearings.

Mr Tilson: But the list is in fact stopped. It is not getting larger. It is either getting smaller or it stays the same as a result of Bill 4. I cannot believe there are more applications. I mean, there cannot be. Why would there be if the government is saying, "Do not apply"?

Ms Parrish: The applications to the board are coming from all the hearings and all the decisions that have been made before Bill 4 comes into effect.

Mr Tilson: Yes, but that has stopped now.

Ms Parrish: Well, it has not stopped, because they still think people can apply for it and are applying. There will be a diminution over time, you are quite right, but it will take a long time for that to impact the board.

Mr Tilson: The second question I have is, will it cost the taxpayer more money as a result of this, and if so, what will it cost?

Ms Harrington: Not having any figures offhand, I asked staff, and apparently no.

Mr Tilson: No cost factor.

Ms Harrington: That is correct.

Mr Tilson: Well, is that—

Ms Harrington: I would also like to—

Mr Tilson: —an answer from the hip or did you actually have facts that there would be no cost factor? Do you now or are you guessing?

Ms Parrish: If the board hires a person to be a hearings board member, obviously it has to pay him a salary. The question you are asking is really, is there likely to be a salary differential as a result of hiring the civil servant as opposed to hiring anybody else, and I cannot think of a reason why that would be the case. I suppose it could happen.

We have not forecast for any increase. I should note that the vice-chairman is already a civil servant. I suppose one can think of scenarios where you have somebody with a very large vested pension or whatever, but you can hire anybody. All this is really saying is, instead of paying your salary to person X, you are paying the same salary to person Y. You are just increasing your ability to recruit by having a wider pool of potential applicants.

Mr Tilson: Will there be a decrease in civil servants or will it stay the same? Will you hire civil servants to replace those who are moving on?

The Chair: You are referring to the board?

Mr Tilson: Yes.

The Chair: Which is a quasi-judicial board which has traditionally appointed people from outside.

Mr Tilson: Yes, I am. There are more bodies coming from somewhere.

The Chair: I just want to make sure you were referring to the board specifically.

Mr Tilson: Yes.

Ms Parrish: I do not know what the board will do because, of course, we do not control its hiring process. All this does is give them the option of hiring a person who is a civil servant. Right now the only person whom they can hire who is a civil servant is the vice-chairperson, and any other member cannot be a civil servant; they exclude themselves from recruiting those persons. Whether or not that will mean they will hire any civil servants, I do not know. They might, but we do not control their hiring process.

Mr Tilson: I am terribly afraid this is more mushrooming bureaucracy. I really am because, with all due respect to you, the answer simply has not dealt with that and we just do not have the facts before us. I have no idea what this is all going to cost. Maybe it will not cost that much. I do not know whether we are going to be hiring more people to replace the people who are moving on. I do not know any of those things. How are these people appointed? How is that going to be dealt with? Is it going to be Premier Bob's friends or where are they going to come from?

Ms Parrish: I do not think I can answer that question. Technically, they are appointed by orders in council.

The Chair: I would assume that if they were civil servants they would probably be seconded from different departments and ministries. I do not think we will be seeing civil servants quitting their civil service jobs to be appointed to this board; I think they will be seconded. I could be wrong. Maybe the government can help us.

Ms Harrington: I am sorry, I could not say.

Ms Parrish: That is certainly an option, that you would second somebody from somewhere within the government. Then when they had completed dealing with the backlog at the hearings board, they would return to some other employment in the government, or perhaps they retire. They could be individuals who are nearing retirement age and are not willing to take an appointment with the board because they would have to give up their pension rights and therefore they may not wish to be in the position where they have to make such a significant personal sacrifice.

Mr Tilson: This committee that has been appointed to appoint committees—I do not know what it is called; I sat on it one day and left.

The Chair: You were impressed?

Mr Tilson: No, I was not, quite frankly. I do not know what it is called. Obviously, it was a flippant remark and I

meant it like that, but I do not know what the name of the committee is. Do you know the committee I am speaking of?

The Chair: Yes.

Mr Tilson: Would these people come under that committee before they get appointed? Where do they come from? I am following through on Mrs Poole's comments. I would like to be reasonably satisfied that these people will be independent. They will be making quasi-judicial decisions. My question is to anyone.

The Chair: If I could be helpful, and I certainly do not want to speak for the government, but the way I read this is that this amendment, this section of the bill, will allow civil servants to be appointed as hearings board members. Now, in order to be a civil servant in the true sense of the word you must be in the employ of the government, with all of the responsibilities a civil servant has at the time. Then from that group of individuals these people will be chosen by some method devised internally by the government to sit on the hearings board. That is different from what has been the practice, as was described by Mrs Poole, where people were appointed as hearings boards officers from outside the government. It is different, and your questions reflect that difference, so unless I am incorrect in what I have stated—

Mr Tilson: Well, Mr Chair, I do appreciate the concern of the government in trying to cut down on the waiting lists. I do appreciate that, but I do not believe it is the answer, I really do not. It would appear that it may cost more. The public must perceive that justice will be done, and the public, the way this has been phrased, cannot be satisfied that these individuals will be independent enough to make those decisions. In light of that, I will not be supporting the amendment.

The Chair: Any further discussion?

1240

Ms Harrington: Just a short comment. You are right, Mr Tilson, that this committee of the government is the process through which these appointments will go. Second, Mrs Poole mentioned a training process. Yes, these people will have a training process to go through.

The Chair: That is fine. Any further discussion? Shall the amendment carry?

Motion agreed to.

Section 6, as amended, agreed to.

The Chair: We have, I believe, two more government amendments.

Section 9:

The Chair: Ms Harrington moves that subsection 118(1) of the act, as set out in section 9 of the bill, be amended by adding the following paragraphs:

"35e. prescribing, for the purposes of part VI-A, the method of determining maximum rent;

"35f. prescribing, for the purposes of section 100g, the manner in which the minister shall determine the reduction of the rent increase;"

Ms Harrington: This amendment sets out specific regulation-making powers to prescribe the method of

determining maximum rent and determining the reduction of a rent increase on an application under 100g.

The Chair: Any discussion on paragraph 35e?

Ms Poole: Briefly, I support the amendment of the government and I am particularly delighted to see that there are going to be criteria established via regulations to deal with rent reductions. I think that under section 100 this will be helpful for all concerned, tenants, landlords and ministry officials.

The Chair: Any further discussion? Shall the amendment carry?

Motion agreed to.

The Chair: Ms Harrington moves that subsection 9(1) of the bill be amended by adding the following paragraph to section 118 of the act:

"35g prescribing criteria that the minister may consider in determining the real substance of transactions and activities and the good faith of participants under subsection 100e(8)."

Any discussion?

Mr Tilson: I would like to look at it before—

The Chair: Let's get a copy for Mr Tilson.

Ms Harrington: This amendment creates the regulation-making authority to set out criteria that could be used in making decisions under subsection 100e(8). Subsection 100e(8) provides discretion to the minister in determining a justified rent increase, to determine the real substance of transactions and activities and the good faith of the participants in those transactions. This amendment was discussed in relation to subsection 100e(8).

The Chair: Any discussion on the amendment? Shall the amendment carry?

Motion agreed to.

The Chair: Shall subsection 9(1), as amended, carry? Carried. Shall subsection 9(2) carry? Carried.

Legislative counsel has an opinion to offer to us.

Ms Baldwin: With regard to subsection 3, I would ask the committee's unanimous consent to change the reference to paragraph 35d in subsection 3 to paragraph 35e since we have just added these extra three paragraphs.

The Chair: Do we have unanimous consent? We have unanimous consent. Shall subsection 9(3) carry, as amended? Carried.

Section 9, as amended, agreed to.

The Chair: Just a second. I am just trying to give the clerk time to make notes as we are going along here.

Section 10:

The Chair: Do you want the explanation for section 10?

Ms Poole: If the parliamentary assistant does not have a specific explanation, I would just ask if my impression is correct that the intent of section 10 is to say that as of January 1993 this act will be null and void unless, obviously, the minister introduces his long-term legislation in the meantime, in which case it would be voided sooner, and that this section merely refers to the sections in the bill that would be voided with that. As long as that explanation is correct, then—

The Chair: Shall section 10, in its entirety, carry?

Section 10 agreed to.

Section 11:

The Chair: Moving on to section 11, would you like to make any comments on section 11?

Ms Harrington: This section provides that the RRRA will not affect the rights acquired under a court order before 29 November 1990 with respect to the definition of a rental unit. For example, the Divisional Court decision in *Crichtwright v Jutasi*, which ruled that the rented site on which a permanent single-family home was situated was exempt from the RRRA, will not be affected by the RRRA amendment for the parties to that decision, as the decision came before 29 November 1990.

The Chair: Any discussion?

Mr Tilson: At least this is one section that is not retroactive.

The Chair: All right.. Shall section 11 carry?

Section 11 agreed to.

Section 13 agreed to.

Title agreed to.

The Chair: Shall the bill, as amended, carry?

Ms Poole: Mr Chair, could we please have a recorded vote on that?

The Chair: A recorded vote has been requested. All in favour?

The committee divided on whether the bill, as amended, should be agreed to, which was agreed to on the following vote:

Ayes—6

Abel, Dadamo, Drainville, Harrington, Lessard, Ward, B.

Nays—4

Brown, Mahoney, Poole, Tilson.

Mr Mahoney: Are you going to announce the result of that vote, Mr Chair?

The Chair: The vote indicated that the bill carried.

Mr Mahoney: I see.

The Chair: Sorry, Mr Mahoney.

Mr Mahoney: Was it close?

The Chair: Well, it was about six to four, I think.

Bill, as amended, ordered to be reported.

Ms Harrington: Thank you very much. You did a wonderful job.

The Chair: Thank you.

Ms Poole: Just on a point of order, the fact that the government members voted down virtually all of my amendments, except two which did not go to the heart and soul of the act, does that mean they did not like my amendments?

The Chair: It may be, but that is not a point of order.

Mr Mahoney: It does not mean they do not like you, though, Dianne.

The Chair: The committee is adjourned.

The committee adjourned at 1250.

CONTENTS

Thursday 28 February 1991

Residential Rent Regulation Amendment Act, 1990, Bill 4	G-8
Adjournment	G-8

STANDING COMMITTEE ON GENERAL GOVERNMENT

Chair: Mancini, Remo (Essex South L)**Vice-Chair:** Brown, Michael A. (Algoma-Manitoulin L)

Abel, Donald (Wentworth North NDP)

Bisson, Gilles (Cochrane South NDP)

Drainville, Dennis (Victoria-Haliburton NDP)

Duignan, Noel (Halton North NDP)

Harrington, Margaret H. (Niagara Falls NDP)

Mammoliti, George (Yorkview NDP)

Murdoch, Bill (Grey PC)

O'Neill, Yvonne (Ottawa Rideau L)

Scott, Ian G. (St George-St. David L)

Turnbull, David (York Mills PC)

Substitutions:

Dadamo, George (Windsor-Sandwich NDP) for Mr Mammoliti

Lessard, Wayne (Windsor-Walkerville NDP) for Mr Duignan

Mahoney, Steven W. (Mississauga West L) for Mrs Y. O'Neill

Poole, Dianne (Eglinton L) for Mr Scott

Ward, Margery (Don Mills NDP) for Mr Bisson

Tilson, David (Dufferin-Peel PC) for Mr Murdoch

Clerk: Deller, Deborah**Staff:**

Baldwin, Elizabeth, Legislative Counsel

Hunter, Leith, Legislative Counsel

Richmond, Jerry, Research Officer, Legislative Research Service



-20 1991

G-20 1991

ISSN 1180-5218

Legislative Assembly
of Ontario

First Session, 35th Parliament

Official Report of Debates (Hansard)

Thursday 18 April 1991

Standing committee on
general government

Fiscal plan and economic
projections

Chair: Remo Mancini
Clerk: Deborah Deller

Published by the Legislative Assembly of Ontario
Editor of Debates: Don Cameron

Assemblée législative
de l'Ontario

Première session, 35^e législature

Journal des débats (Hansard)

Le jeudi 18 avril 1991

Comité permanent des
affaires gouvernementales

Planification fiscale et
prévisions économiques

Président : Remo Mancini
Greffier : Deborah Deller

Publié par l'Assemblée législative de l'Ontario
Éditeur des débats : Don Cameron



Table of Contents

Table of Contents for proceedings reported in this issue appears at the back, together with a list of committee members and other members taking part.

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at (416) 325-7400.

Languages in Hansard

Hansard reports all debates in English or French as spoken by the participants. It does not translate remarks made in either language. Headings and tables of contents reflect language use.

Subscriptions

Subscription information may be obtained from: Sessional Subscription Service, Publications Ontario, Ministry of Government Services, 5th Floor, 880 Bay Street, Toronto, Ontario, M7A 1N8. Phone (416) 326-5310, 326-5311 or toll-free 1 (800) 668-9938.

Table des matières

La table des matières des séances rapportées dans ce numéro se trouve à l'arrière de ce fascicule, ainsi qu'une liste des membres du comité et des autres députés ayant participé.

Il existe un index cumulatif des numéros précédents. Les renseignements qu'il contient sont à votre disposition par téléphone auprès des employés de l'index du Journal des débats au (416) 325-7400.

Langues paraissant dans le Journal des débats

Le Journal des débats rapporte en anglais ou en français les débats, selon la langue utilisée par les participants. Les remarques faites en l'une ou l'autre langue ne sont pas traduites. La langue des en-têtes et de la table des matières reflète la langue utilisée.

Abonnements

Pour les abonnements, veuillez prendre contact avec le Service d'abonnement parlementaire, Publications Ontario, ministère des Services gouvernementaux, 5^e étage, 880, rue Bay, Toronto (Ontario) M7A 1N8. Par téléphone : (416) 326-5310, 326-5311 ou, sans frais : 1 (800) 668-9938.

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON GENERAL GOVERNMENT

Thursday 18 April 1991

The committee met at 1007 in room 151.

FISCAL PLAN AND ECONOMIC PROJECTIONS

Consideration of the following designated matter pursuant to standing order 123: A review of the methods employed by the Ministry of Treasury and Economics in generating its fiscal plan and economic projections and of the relationship between economic and fiscal plan projections and an examination of the factors which contributed to the variance between the 1990 Ontario budget fiscal plan and economic projections and current projections and of how that variance compares to any variances experienced in prior fiscal years in Ontario and in other Canadian provinces.

The Chair: I call the standing committee on general government to order. This morning, as has been previously planned, we are dealing with one of the 12-hour motions that has been put forward by one of our colleagues, Mr Turnbull. This has been referred to and I would like to refer this to standing order 123. There is another one of these 12-hour motions we have agreed to look at at our earliest opportunity.

I understand this morning that we have officials from Treasury and Economics. I would welcome the deputy minister, Bryan Davies, and in a moment I am going to ask him to introduce officials he has brought with him today. The clerk will keep track of our time and I want to remind everyone that the agreement is for 12 hours and we are going to have to stick to our time schedule as best we can.

Mr Drainville: On a point of order, Mr Chair: I would like to raise an issue that is of some concern to our side in terms of the way we go about the business of standing order 123, and it has to do with 123(b). It says in that particular text, "The subcommittee shall make a report to the committee on a matter designated pursuant to clause (a), which shall include a precise statement of the matter to be considered." I would say the statement that has been given to the committee is neither precise nor really comprehensible. As I have read it, it would take the efforts of a PhD in English and a rather influential grammarian to be able to plow through the verbiage that has been set before us.

Let me give you an indication if I might, Mr Chair. It says, "A review of the methods employed by the Ministry of Treasury and Economics in generating its fiscal plan and economic projections and of the relationship between economic and fiscal plan projections and an examination of the factors which contributed to the variance between the 1990 Ontario budget fiscal plan and economic projections and current projections and of how that variance compares to any variances experienced in prior fiscal years in Ontario and in other Canadian provinces." Now, Mr Chair, I would say to you that as we looked at this and attempted to prepare ourselves for the onslaught that—

Mr Stockwell: What is the point of order, please, Mr Chair?

The Chair: Mr Drainville is making his point of order.

Mr Stockwell: Is there a time allocation on points of order?

The Chair: Order, please. Mr Drainville, please continue.

Mr Drainville: If the honourable member opposite would only take the time to listen instead of speaking, he would find that the issue has to do with the precise statement of the matter to be considered. Now, I realize there is a sense in which precision is something that can be considered somewhat subjective. But in any real attempt to grapple with an issue having to do with the important issues in government, we have to acknowledge that this statement is neither precise nor helpful in terms of our attempts to get at the issues of the honourable member.

So my statement to you, Mr Chair, would be to make some sort of assessment as to whether this committee can really deal with the issue as set forward here in this standing order. Who can really understand what it means to begin with?

The Chair: Thank you. On the same point of order, Mr Brown?

Mr Brown: Thank you, Mr Chair. Might I say I am offended by what the government has just said. This motion was put before this committee some four months ago. There have been various subcommittee meetings. There have been a lot of meetings about this issue and I wanted assurance from the Chair that this time that is being used is not part of the 12 hours and that the 12 hours will not commence until we have finished with this point of order.

Mrs Y. O'Neill: I will certainly support Mr Brown in that.

Mr Mammoliti: I would like to find out about precedents as to what, in the past, Mike Brown's—

The Chair: The precedents on what, Mr Mammoliti?

Mr Mammoliti: On whether this time that we have just used will be taken off the 12 hours.

The Chair: Very good, we will address that in a moment. Mr Turnbull

Mr Turnbull: I would say that I have had some discussions with various bureaucrats and with some economists. They did not seem to have any difficulty in understanding it, and having seen the antics in the House of time allocation from the NDP, I quite understand that it has difficulty in understanding any complex issue. So I, too, will ask that this time that is being wasted on this foolish point of order be taken off the 12-hour designation, that the 12 hours will not start running until we have finished dealing with it.

Mrs Y. O'Neill: Are we going to talk now to the precedent that has been said about 123 in this Legislature? Or have we finished the point of order?

The Chair: We will address that in a moment. Anyone else?

Okay, Mr Drainville's point of order is that the motion put forward by Mr Turnbull does not, in fact, meet the requirements of the standing order, particularly 123(b). I want to remind all committee members that this matter was debated in the subcommittee and in the full committee late in 1990. This matter was approved by the subcommittee, I believe on 6 December 1990. The rule suggests that once the subcommittee agrees to a particular issue being discussed under section 123, it is automatically deemed that the matter be accepted by the committee.

Mrs Y. O'Neill: We have had another meeting, talking about the process.

The Chair: I believe on the 13th; we had another meeting on the 13th.

Mrs Y. O'Neill: No, just lately. We discussed how we were going to go about this process.

The Chair: Okay. I recall the discussion concerning Mr Turnbull's request. I recall the issues he wanted to face. While I would agree that the statement is, in fact, general in nature, I believe the discussion we had at the time was more specific. I believe we can accommodate Mr Turnbull's motion under standing order 123. We have 12 hours to do this. I also believe that if we are going to get to any final conclusions, we are going to have to be specific in nature as we are going through the process. I would deem that the subcommittee's acceptance of the original motion as put forward by Mr Turnbull is, in fact, in order.

The second question for the Chair to decide this morning is whether the not quite 20 minutes that we have used this morning discussing the point of order should be, in fact, deducted from the 12 hours. I have checked with the clerk, and I am reminded that there is precedence for such a decision. The time we have used this morning will not be deducted from the 12 hours. The 12 hours will commence once the committee commences its hearings on the matter as put forward by Mr Turnbull and adopted by the subcommittee and the committee. That is the ruling of the Chair, and—is this a new point of order?

Mr Drainville: No, just a point of information. It has been 12 minutes, Mr. Chair. I just want to make sure that you are aware of that. It has not been 20 minutes. If you are going to go that route, I just want you to be precise about it, that is all.

The Chair: I appreciate that.

Mr Mammoliti: I would like to find out why you made that ruling. What is the reason?

Mr Turnbull: Because he is the Chair.

Mr Mammoliti: That is not good enough for me. Sorry. It may be good enough for the autocratic party over there, but it is not good enough for me.

The Chair: I appreciate the question and I have to be honest with the member. The Chair's ruling was based on

a precedent that had already been established in legislative proceedings and I am continuing the precedent.

1020

Mr Mammoliti: Mr Chairman, if we make points of order in the future, is it going to be deducted from the 12 hours, then, the time that we use to discuss the points of order? Or is that a decision that you are going to have to make?

The Chair: I just confirmed my view on the matter and that is, if it is a point of order to deal specifically with the subject matter that is at hand, as we go about the work during the 12 hours, then of course it is deducted from the 12 hours. If it is a procedural matter to do with how we are going to function under this particular standing order, then no, I will not deduct it from the 12 hours.

Mr Mammoliti: Thank you.

The Chair: You are welcome. If it is a procedural matter, as we just discussed this morning, it will not be deducted from the 12 hours. If it is a point of order on something specific as we are going through the 12-hour debate, then it will be used up as part of the time. Do you have it?

Mr Brown: Yes.

Mrs Y. O'Neill: I just want to say to the members of the government that this 123 order, which was agreed to when the House rules were changed, is considered opposition time. I would suggest that you use it wisely, and I would suggest that we will be discussing this with our House leader and I think you should do the same, to find out what 123 orders really are. They are for the government to listen to the opposition, and that is what opposition days are all about and we have a right to be heard. I think this is unbelievable that again this committee starts off in this kind of disorderly manner of being unco-operative. We started this with Bill 4 and you are going down the same route and I am really disgusted.

MINISTRY OF TREASURY AND ECONOMICS

The Chair: Okay. Seeing no further comment on the matter, I would like to turn the floor over to Bryan Davies, Deputy Treasurer, and ask Mr Davies to introduce the officials who are with him today.

Mr Davies: Thank you very much, Mr Chairman. I have with me today the staff members from the Ministry of Treasury and Economics whose attendance was, as I understand it, requested by the committee. They are Bob Christie, assistant deputy minister of the office of economic policy, Qaid Silk, director of the economic forecasting branch, and Tony Salerno, director of the fiscal planning policy branch.

If it is agreeable, Mr Chairman, I would like to give an overview of the processes and the results of last year that we pursued in our economic and fiscal reviews. I would think that would take about half an hour, and in it we are attempting to address the items that were embraced in the matter designated by Mr Turnbull. I had the opportunity to speak to Mr Turnbull and get an elaboration on a couple of those points and I think that in this presentation of half an hour or thereabouts, we will be able to address, to the best

of our ability at any rate, the various matters that are touched on in this designated matter. So with your concurrence, Mr Chairman, I would proceed.

I have several handouts that I have left with the clerk that will assist in that and there are tables that I will be referring to as we go.

The Chair: We will give them out right away then.

Mr Davies: Okay. At the outset, I noted that in the matter designated there is reference to both fiscal plans and fiscal and economic projections. I think it is important to distinguish between a fiscal plan and a fiscal and economic projection since I think this distinction is important to appreciating the role of forecasting.

Governments, as opposed to civil servants, develop fiscal plans because they can include expenditure and revenue adjustments to alter trends that are evident in projections. The projections that we generate as professional economists in Treasury and Economics are just that. Governments have, as their purview, the amending of revenue or the adjusting of revenue and expenditure patterns that could or could not, as the case may be, alter those projected trends.

I just wanted to emphasize that at the outset, because I think it is an extremely important distinction.

For the rest of my overview, I was going to go through the queries posed in the matter designated by Mr Turnbull by first outlining how we go about constructing a forecast of an expected economic performance, or the economic forecast, and what our experience and that of others has been in this regard over the past year, because that is asked for in the motion as well.

I would then move on to talk about how we construct our revenue and expenditure components of what we call the fiscal forecast. The economic forecast deals with the economic aggregates; gross domestic product and so on. The fiscal forecast translates that and other matters into what that means for our revenue and expenditure projections.

As I will for the economic forecast, I will highlight how these fiscal components shifted over the past year. Like our economic forecasts, they did shift.

Finally, as part of my overview I will address how these variances compare with variances of other years in Ontario and, at least to the best of our capacity, given the limited amount of information that is available on other provincial jurisdictions, how our record of performance compared to those other Canadian provinces for which we have information.

Let me start then with the economic projection procedures that we follow. We follow a regular forecasting cycle. Treasury and Economics normally produces two public macroeconomic forecasts each year. One is contained in the budget—and budgets in this province are normally brought down in the spring. We also produce a public forecast in a statement that is generally released by the Treasurer in the late fall, in part, really, as a source document for the standing committee on finance and economic affairs' deliberations as it prepares itself to assist the government in providing some pre-budget consultation advice. That economic forecast again is regularly published

usually in late November or early December. So again, we have two public macro forecasts each year.

Internally, we normally do two additional forecast updates and they are produced for internal use. They are produced following the summer and winter releases of something called the national accounts, which are Canadian-wide gross domestic product data that are generated by Statistics Canada. We produce these internal forecast updates just to monitor the performance of the economy relative to our public forecasts to see if there have been any really big shifts and changes.

The trigger for revisions to a forecast is that system of national income and expenditure accounts that I referred to, the national accounts, which are released quarterly. Most private forecasters, I would point out, use the same base information to drive their economic forecasting models.

This past year, we have seen a lot of international upheavals and certainly rapidly softening economic indicators, many of which were reported in August, including the second-quarter national accounts data that came out on 31 August. That, combined with the need to be prepared to brief any incoming government or any incoming administration with the latest update that we could possibly have immediately post the 6 September election, caused us to pursue a very thorough update forecast during the first week of September because we had to await collection of data that were coming in in August, readied for presentation immediately following the election.

1030

I will leave it to Qaid Silk to address, if the committee is interested, any of the mechanics of preparing a forecast, what the various procedures are. But I would just note that the process relies on the use of macroeconomic computer models that have certain inherent limitations in their construction. First of all, they largely project based on past trends, and for this reason they tend to be less accurate when past trends do not work any more because we are having quite a sea change or what economists call a "turning point" in the economy. So when you have such a radical change in economic conditions, the various modelling formulae that are based on more historic, more normal patterns of relationships just do not generate numbers that are as accurate as in more normal times. Furthermore, models operate on the basis of data that are available only with lags of, quite often, up to three or four months. We have to wait for the data collected by the statistical organizations in the country to become available so we can plug those data into the models and prepare updates.

Let me turn now to the results of that economic forecasting methodology of this past year. If the clerk would distribute handout 1, it has two tables attached to it that show how our economic forecast moved around in the year.

The Chair: Can I ask whether you consult outside agencies as you are beginning to make your forecast for the following 12 months?

Mr Davies: Both Bob Christie and Qaid Silk could give a much more detailed answer to that, Mr Chairman, but I would say that we monitor both their formal forecasts

and talk to all the other participants who actively pursue forecasting in this province. By that I am referring to many of the chartered banks, the conference board, other economic forecasting organizations.

The Chair: Would that include having any formal meetings?

Mr Davies: I would ask my colleagues to comment on that.

Mr Silk: Once a quarter the various investment houses do come into Treasury and discuss their view of financial markets and economic markets and we talk to them. On an informal basis, as Bryan points out, we are in constant contact with people who are interested in assessing economic developments and trying to anticipate what the future holds.

The Chair: And do you do this with any international organizations, not based in Ontario?

Mr Silk: On a formal basis? Once a year we do have meetings with the Organization for Economic Co-operation and Development people when they come over. And we do have formal contacts with a couple of forecasting companies that are data resources and work in econometrics. Both of these companies are monitoring and forecasting economic activity in the United States, Europe, Japan, etc.

The Chair: So when I see the first line on page 1 of the initial handout where it refers to April budget, can one assume then that all of the conclusions that you came to at the time or you will come to in the future are not done completely in-house? The information you receive from other agencies who do this kind of work and any international body that you consult with, may that have an effect on the final numbers that you accept and put forward?

Mr Silk: If I understand your question—and I think the deputy will come to table 2 in a minute—we are both informed by our contacts of what other people are saying about the Canadian economy, and we obviously take into account information on what is happening currently to the economy, the data that are available from Statistics Canada. So we are informed both by what is currently happening and by other observers' views of what they think will happen. But on table 1, this is our forecast of what Ontario's future is. It is informed by both data.

The Chair: Thank you. That is all I have. Mr Davies?

Mr Davies: I have about three very brief bullet points to explain these two tables that might be helpful.

The Chair: Mr Turnbull, did you have something?

Mr Turnbull: I will defer that until after you have presented.

Mr Davies: My suggestion is that we have two other sets of handouts of similar nature, and I certainly defer to the wish of the committee, but I thought it might be useful to give the overview and then engage in more detailed discussion, because I suspect that some of the questions might answer themselves.

If everyone has handout 1, I would just draw your attention to the first table there, which Mr Silk has already made reference to. This shows how our in-year changes occurred to our own forecast over the four periods I cited:

the April budget, which came out last year on, I believe, 24 April; our July internal forecast that we generated after the first quarter national accounts would have been available; and then our September internal forecast, which we were generating out of our normal cycle, by the way, because we normally would have produced that somewhat later—we generated that in a more hurried fashion this year because we wanted to be ready with the most up-to-date information to provide to whatever the incoming administration was so that right immediately post the election we could give the latest state of play as we saw it, so that was produced for 10 September; finally, the last forecast number on this page is the so-called autumn statement or fall statement, which the current Treasurer provided to the Legislature on 4 December. We have also included in bold at the foot of the table the actual year-end results as the world did evolve at the end of 1990.

I would just observe, by the way, on table 1 that we kept going down during the year and going down significantly. Other forecasters found themselves in the same circumstance, and that is what the second table shows. We have put in the second table ranges for each of those periods of the ranges of forecasting for the four key variables: real growth, employment growth, the unemployment rate and the consumer price index measure of inflation for a number of other forecasting bodies that are referenced in the footnote source. Then we have positioned the Treasury forecast, which is from the table 1, to show where we were in the overall scheme of things.

Later, I will be referring, as Mr Turnbull's motion requested, to the forecasting success in other Canadian jurisdictions this past year. When I get there I think you will find that they too found themselves off base, but quite frankly not as off base as we were, because the recession has really hit Ontario by far the hardest of any jurisdiction, and their variances therefore have been more modest than ours, and, for that matter, than for other forecasters of the Ontario economy.

The Chair: I believe Mrs O'Neill has a question.

Mrs Y. O'Neill: I think this is a very good way to show this. I wonder if you could settle a bit more about what you mean by "off base." Could you be a little more specific and show us just a bit more about what you mean by that term?

Mr Davies: We began with real growth of 1.7% and in December we had reforecast that to 0.7%. That is what I was getting at.

Mrs Y. O'Neill: And that has nothing to do with a shorter projection period?

Mr Davies: By all means, as one gets more information it is very easy to forecast tomorrow. It is relatively easy to forecast the weather tomorrow; it is much more difficult to forecast the weather next year at this time, to use an analogy that I think has been somewhat apt this past year.

Mr Turnbull: The number that jumps out at me is the July number, where your Treasury forecast was rather optimistic compared with the other range. Now of course this particularly concerns me given that this was the one closest to the beginning of the election. I presume you draw, from what

ou have told me—in fact, we see it displayed here—on a range of different projections. Why would you suddenly have a significantly more optimistic view than any of the other groups?

140

Mr Davies: Perhaps I could ask Bob Christie to address that query.

Mr Christie: I think I would make a couple of points to note a couple of factors. With respect to the real growth forecast that you are looking at, the range has narrowed somewhat, as is common as you go through the year and get more actual information that is available to all forecasters. The range begins to narrow in. The difference here of two tenths of 1%—I think you used the word “significant.” We will talk a little bit later about the kinds of variances that are experienced in this kind of exercise year in and year out. While one would like to be perfect all the time—Mr Qaid can amplify on this if he wishes—the two tenths of four tenths of 1% discrepancy between the top of the range and areas in the range were not a matter of concern to us in the July update.

Mr Turnbull: But what I am saying is that in all other cases I think you are within the range and then suddenly you step out of the range of other forecasters and it is a more optimistic view.

Mr Christie: The other point I had wanted to make on this was that we are forecasting a number of matters, and while we were somewhat more optimistic or above the top of the range in July for real growth on the employment numbers for Ontario—which are also very important as an alternative measure of the economy—we were probably the most pessimistic of the forecasters.

Mr Turnbull: But you were within the range.

Mr Christie: We were the low end of the range.

Mr Turnbull: And you are saying that two tenths of 1% is not a significant variance. I would suggest that when you are talking about as a percentage of the range, it is a significant overshoot of the range.

Mr Christie: As a per cent of the range it is large; as a per cent of the economy it is relatively small.

Mr Silk: Also, if I may point out, in our December forecast we were outside the range. The range was minus 0.8 to plus 0.3. We had forecast at that point 0.7. As Mrs O'Neill pointed out, obviously everybody had a lot more information about 1990 by December, but none the less we were outside the range and we were quite happy to be outside the range. It turned out that the actual later on was also outside the range of other forecasters. We were slightly closer to the range, if you like, or close to the actual.

So as I was saying in answer to the Chairman's question earlier, we do take into account other information and other people's assessments and we try to develop our own. At times we tend to be in the range; at times we tend to be outside.

Mr Turnbull: Do you internally produce a range of numbers?

Mr Silk: We definitely produce risks and, in terms of any specific shock that we think is an important shock that

is likely to happen, we try to assess the implications of that for the forecast.

Mr Turnbull: How many different numbers would you typically produce in a range, your internal forecasting?

Mr Silk: For any given forecast?

Mr Turnbull: Yes.

Mr Silk: No, we are forecasting basically one number. We are modifying that number through the year. We are recognizing that there are both what one might call upside risks and downside risks and we are trying to get the central tendency, we are trying to balance those risks and stay within the middle, recognizing fully, as this table shows, that in fact there are both sides of it, and also being quite alert and informed of the fact that there is a range provided by the fact that other forecasters are forecasting.

Mr Turnbull: So you have produced one number and then you contrast that with the other numbers from the other forecasters.

Mr Silk: And all of those forecasters are only forecasting one number as well, recognizing fully that there are risks on both sides.

Mr Brown: I just have a question of clarification. When we talk about these ranges, are we talking about numbers specific to Ontario, so these are other forecasts specific to just the Ontario economy?

Mr Silk: Yes. They will also be forecasting Canada, and some of them forecast, obviously, other provinces. What we have shown in this table is their view for Ontario, compared to our view for Ontario.

The Chair: And I am assuming that it is as simple as it appears on page 2, where you just take the lowest range that has been provided by the organizations listed, and you take the highest number as provided by these organizations? It is just that simple?

Mr Silk: Yes.

Mr Davies: What I now propose to do is move on to our revenue and expenditure projection methodology, and the normal cycle that we follow there, and then to indicate how our performance ensued this past year on that front. The two are obviously related.

Our annual budget economic forecast is really the major determinant affecting our base revenue growth, particularly for taxation revenue sources, which comprise almost 80% of the total revenue sources. Non-tax sources, such as fines and penalties, fees and licences and so on are adjusted in individual or discrete fashion to reflect inflation, and federal payments represent a number of cost-share agreements that are formula driven. We then add budget revenue moves or adjustments, and these are added or subtracted from the base to get our total revenue forecast at the beginning of each year.

There is a large number of variables affecting individual revenue sources, and rather than even attempt to summarize these here, I will leave it to Mr Salerno to address any specific queries you might have, but I would note that in forecasting any individual revenue element one has to look at a variety of factors, the economic forecast and other indicators. There are a host of complex issues that impact

on any particular revenue source, behaviour patterns of individuals not the least.

Revenues are monitored on an ongoing basis, and advice is provided to the Treasurer. More formal assessments are undertaken on a quarterly basis, and those of you in this room will be familiar that they are reported to the Legislature and to the public in a publication called *Ontario Finances*, which is produced quarterly and lays out in detail, ministry by ministry, our expenditure forecasts, and in detail, revenue source by revenue source, our adjusted revenue numbers. Those reports come out for the quarter ended 30 June, in July; for the quarter ended 30 September, in October; and for the quarter ended at the end of the calendar year, 31 December, in January. The final quarter is reported in the spring budget.

We do not swing around our revenue forecasts each time we see an isolated variance in a revenue flow. Rather, changes to revenue forecasts are not undertaken until all cash flow and economic factors have been confirmed. If we moved every time we saw one number change, a variance from what we thought was going to occur in, say, the month of April, and what actually did occur, we would be bouncing up and down with a great degree of frequency. But what we do look for are trends in patterns, and those trends in patterns become evident on a quarterly basis, normally.

1050

Mr Turnbull: Excuse me, can I ask one question? The first quarter, finances section, as compared with the revised outlook, you are reporting different items under revenue and expenditure items there.

Mr Davies: I would just point out, Mr Turnbull, that what we are doing in these tables, and I will speak to this table very specifically now, is isolating the major changed factor. There are many other factors that are altered, obviously. Any individual account would have altered, but some balance one another out. What we have attempted to do here is isolate, as was isolated in the first-quarter *Ontario Finances* that was published in July, the highlights of the more significant changes and the changes in trends.

Perhaps I could draw the rest of the committee's attention to the table that Mr Turnbull has already referred to, which is in handout 2 and which shows the progression of our fiscal outlook, detailing the revenue and expenditure and deficit changes throughout the course of the year. It shows that, consistent with the deterioration evident from our economic forecast, the deficit increased from a slight surplus, evident even in the first quarter report released in July, to some \$700-million deficit level in the numbers we were able to generate for 10 September, to \$2.5-billion deficit in the second-quarter finances released at the end of October.

I would really emphasize here the point that I made at the outset of my presentation: that the numbers shown in September reflected policy decisions already in place. They did not attempt to reflect any fiscal plan that an incoming administration would apply to these numbers. These were projections based on what we call a no-policy-change projection, which was the way we generated the numbers for September.

Over the course of the year, on the revenue side, major declines were reported for retail sales tax, corporations and land transfer taxes, while expenditure increases were related in great part to social assistance case loads, as well as discretionary measures introduced by the government that assumed office, I guess technically in October, but which was elected on 6 September.

Mrs Y. O'Neill: I would like to just go back to the beginning when you said you did not want to go into how you make up the forecast.

Mr Davies: I will be pleased to.

Mrs Y. O'Neill: You talked about behavioural patterns. I would like you to say a little bit more about that, if you would, and I would like you also to give me two or three other components, just so we will have a context in which to put the development of these figures.

Mr Davies: I will, perhaps, turn to Mr Salerno to help me out on this, because he is more expert in this field than I, but retail sales numbers are driven not only by disposable income but by changes in people's psychological perceptions of whether they want to run the risk of going out and making a purchase if they feel their job might be vulnerable. With our modelling, it is very difficult to capture the traditional patterns, especially in times of such radical change in economic circumstances, as I called it earlier. If we see a blip, as we call it, in one month, we usually wait till we see whether it is continuing into a second or third month.

Another example, and this is a very complex area and one that I know certainly has caused difficulty for treasurers of this province, and I suspect for other members of the Legislature as well, is the difficulty in forecasting personal income tax proceeds, because the way the personal income tax works, at least in this province, is that the federal government collects the personal income tax on behalf of this province. They pay us essentially on account. They estimate how much they will be collecting on behalf of the province of Ontario, and then they pay us. Their estimate of that is their guess of how much total personal income tax they are going to get, so that is the first level of estimation. They have to estimate what they think they are going to get.

We then have to estimate whether their estimate is accurate or not, because they make in-year adjustments to us, and as many of you who have been in the Legislature for a number of years know, in recent years those adjustments have been significant, and have been significant on the upward side through the strong growth of the latter years in the 1980s. There were some other years, and an unfortunate year for the Treasurer of the day, where the in-year adjustment went the other way, where the federal government had realized that its estimates, on which we had, in part, relied, proved to be quite wrong, and we had to reduce our personal income tax forecast. Those are just a couple of examples of.

Mrs Y. O'Neill: Could you just say a little bit about something that is very high profile right now? That is the GST cross-border. Are these components or behavioural patterns—have you done a lot of work in Treasury on that kind of behavioural change?

The Chair: Could we save that particular question for a little later?

Mrs Y. O'Neill: Yes. Could I just have a yes or no if they have done work on that?

The Chair: Could we have a yes or no on that, please?

Mr Davies: Our quick answer will be no, we have not looked at that as an isolated variable.

Mr Turnbull: One of the things that jumps out from his table is you had estimated in your 30 June revisions a deterioration in land transfer tax to the tune of some \$30 million. We see that indeed on 10 September you are estimating that this would have deteriorated by \$130 million. I have to say that it seems like a wildly optimistic suggestion that it would only deteriorate by \$30 million in June when already the industry was totally on its knees and there were no sales occurring. Further, the industry was suggesting that there was going to be no improvement that year. So, I am really curious as to how we made that kind of estimate.

The Chair: Can I add a supplementary to that question? Did you consult with the industry, that portion of our economy, before you came up with the \$30 million?

Mr Salerno: As far as our forecast of that specific revenue, we did not consult with the industry specifically ourselves, but we rely primarily on our economic forecast, and to the extent that its forecasts incorporate its discussion and its consultation with the private sector, it would be included in here.

With relationship to specifically how optimistic or not this forecast might have been: frankly, considering how this revenue source had been increasing over the previous two years, in the budget we had in fact changed the trend and had gone with the flat line. We had projected no increase whatsoever in this revenue source this year, in spite of the fact that the overall economy was still at that time projected to increase and prices were as well, both in terms of real terms and the price effect. We had the economy still increasing. We had, expecting some softness in the market, not increased our forecast for the land transfer tax in the budget. Indeed, as we started to see some softness in this revenue source, we dropped it by \$30 million in the first quarter.

Mr Turnbull: But surely flat-lining was in itself a very wildly optimistic move in view of all of the projections that the industry was making for that segment.

Mr Salerno: After the fact, it seems optimistic, but at that time, it did not seem so.

Mr Silk: I am just sort of looking through my papers and I have some information that might help. On 12 July, the range we had in terms of talking to other people of what they thought the housing starts forecast—which is one component of land transfers; not the only one by any means—but the range was from 67,800 to 83,100. Our estimate in the budget had been 81,000. By that time, we had revised it down to 73,000. I would recognize that there was that weakness, but we were at the low end. People were saying 68,000 to 83,000. We were much at the lower

end of that range, significantly. You are right that in the end the housing starts turned out to be even lower than that.

Mr Turnbull: What were the actuals?

Mr Silk: I do not recollect it off the top of my head, but I can get that for you.

1100

Mr Salerno: If I could just add one more little point there, as you know, the land transfer tax in fact lags what is happening in terms of current sales quite significantly, because the revenues that we see most likely in the summer reflect sales that were taking place during the winter, as much as six or eight months in advance of that, because of course the land transfer tax is paid on closing. There is a significant lag particularly, for instance, in condominiums; there could be a lag of as much as a couple of years.

Mr Turnbull: Well, there were virtually no sales in condominiums at the beginning of the year, so I am perplexed at the lack of attention to this very important revenue item.

Mr Salerno: As I was trying to indicate, the revenues that we were getting reflected sales, in fact, that took place earlier in 1989, 1988, as far back as 1987 because of the lag.

Mr Turnbull: Nevertheless, I am saying that as far back as the end of the previous year, there was already such significant evidence of people failing to close condominium transactions. You are mentioning that condominium transactions are typically ones that have occurred long before you see the revenue item. It was quite clear to anybody watching the industry that people were not closing those and that the numbers would have to be adjusted. In fact, most of the major builders were predicting gloom and doom the year before.

Mr Davies: If I could just perhaps add one point to Mr Salerno's observation that we had already taken down the beginning-of-the-year forecast for land transfer tax significantly from the proceeds of the year before. Was it just flat-lining?

Mr Salerno: It was flat-lining.

Mr Davies: It was flat-lined. The second observation, and this is not to suggest that land transfer tax or for that matter any tax source is insignificant: In the overall scheme of things, out of revenue sources totalling well over \$40 billion, we are talking a revenue source of a little over 1% of our total revenues.

Mr Brown: I wanted to talk a little bit about the income tax—our income tax, collected by the feds—coming to us. It is just more or less an accounting question on how that happens. Obviously they flow revenue to us monthly or whatever with regard to an estimate, and then there is quarterly—or how does it work when they make the adjustment to what actually happens?

Mr Salerno: The amount that we actually receive in any one year is composed of a number of components. One is the federal estimate of current-year assessments, when they will be assessed, as the deputy has indicated already. In other words, the federal government forecasts the amount that will ultimately be assessed and pays the provinces on the basis of that estimate.

The forecast is a national forecast. Proportionate to the provinces, they use the last known actual share between the provinces, which again, at the beginning of the year, is two years old.

For this last year, the 1990 tax year, at the beginning of the year, they were using 1988 actual distribution between the provinces; so that is one unknown, let's say. You have the first: It is the federal estimate that we have to guess in terms of the original forecast and how will they change it in-year. There is the other variable, that is, the share that is attributable to Ontario at the beginning of the year and how that will change in-year once they have the previous year's assessment. The other component of what the province will ultimately receive in any year is adjustments in respect to prior years. Now, for this current year, that is, the one just ended, 1990-91, in our forecast for personal income tax, we had included just over \$700 million in anticipated changes in-year. Again we were proved to be overly conservative in that forecast in that the actual adjustments in-year amounted to, I believe, about \$900 million over that adjustment that we had anticipated.

So there are a lot of variables in there that one has to consider and try to estimate. The biggest is of course the fact that we have to forecast what the federal government will forecast. It is not actually what it will be, because we could be bang on, but that adjustment we will not see for another two years and that is the unfortunate aspect—

Mr Brown: So you are telling me that, to be precise, in 1990-91 we received \$900 million more than our Treasury estimated. I understand the difficulty with the estimates; I am just trying to understand how much more revenue the province had than was estimated in the budget documents.

Mr Salerno: You are correct. It is \$900 million more than we forecast but \$1.6 billion more than they had forecast, because of course we had anticipated \$700 million of that adjustment, in-year adjustment.

Mrs Y. O'Neill: Sorry, I do not understand that.

Mr Davies: Perhaps I could just try to clarify that. If, when we were doing the budget this time last year, we had relied on the estimate provided to us by the federal government, that compared with what it finally paid us, the difference would have been \$1.6 billion. We looked at their estimate and adjusted it ourselves to the tune of \$700 million. We were too conservative, we could have adjusted it even more, but we only learned that in-year.

Mr Brown: Then the question is, when was Treasury actually paid the additional money?

Mr Salerno: We were first advised of some revisions in November, which is what they call their first batch of assessments in respect of 1989. So in November we were advised that our share would be slightly higher because of 1989 assessments. That higher share not only gave us more money in respect of 1989 but also was applied in the 1990 tax year, for which again in effect you get a compounding effect in terms of the impact on Ontario's actual cash flow. Furthermore we were getting prior-year adjustments, and all of these compounded to give us the \$1.7 billion. Now, in terms of when we got the actual cash, I believe we received about two thirds of that in January and

the final adjustment came—because again we would never know precisely the final figure until we get it in March—and we received it in March.

Mr Brown: So then how do we account for that? Do we account for it in our system of books when we actually receive the dollars or do we account for it in the period from which the dollars were generated?

Mr Salerno: No, we are on a cash reporting basis, so we would account for it in the year in which we received the money, in the fiscal year in which we received it; however, in terms of when we report it, as soon as we were aware of that adjustment, and that would have been in the third quarter.

Mr Turnbull: So in point of fact the deficit would have been closer to \$4 billion had you not got that extra billion dollars from the feds.

Mr Salerno: Again, I can only report on the projections as we make them in a no-policy-change environment. Assuming the policies as we have them today and the expenditure patterns as we have them now, you are correct.

Mr Silk: Could I answer Mr Turnbull's question earlier, about housing starts? As you recall what I was saying was that in July the range was 68,000 to 83,000, including home builders associations and so on. The actual turned out to be 62,600 for the year. Everybody missed the number, obviously. The number was not in the range, including our own number. We have been revising it down, recognizing that. Later on in the year, obviously, we revised it down even further.

1110

Mr Turnbull: Let me ask you what kind of sensitivity analysis you do on your numbers.

Mr Silk: We do a fair amount. There are a variety of variables in the economy. Housing is one component. Consumer spending is a major component. Exports, imports, business investment—in all of those we are essentially trying to develop, as I was saying earlier, upside, downside risk, ie, sensitivity analysis. We factor all those in to come in the end at a one-point estimate, just as other forecasters do. Some of them tend to cancel each other out. Some of them obviously do not, and we recognize that in working out our sensitivity analysis.

Second, we are recognizing the latest information we are getting to modify our view of the world just as others are.

Mr Turnbull: Do you have any sort of input as to what international investment perception is with changes in political policy and political parties at the helm?

Mr Silk: We are monitoring financial markets and understanding them as best as we can all the time. That is one of the key screens, if you like, through which international assessments of Canada's and Ontario's economic prospects are filtered. Yes, we are monitoring them. As I said earlier to the Chair, we are talking on a formal basis to the economists and the financial people in our investment houses as well, to get their views of how others are seeing us.

Mr Turnbull: And has the international investment community downgraded its desire to invest in Ontario as a result of the election results?

Mr Davies: Perhaps I could address that just by observing that the province has been going to capital markets to borrow funds over the last number of months and we have been able to place our bonds at competitive rates.

Our business is economic forecasting and we rely on numbers. What is behind the numbers and what generates changes to the numbers are a host of variables, as I pointed out in my answer to Mrs O'Neill earlier.

Mr Stockwell: I read your report here and you went from a \$23-million surplus to a \$712-million deficit. Whose responsibility is it to report the information either to the public or the Treasurer?

Now you can tell me all you want that this is the first you have felt that this was taking place, that our economy was going to hell in a hand basket, but I do not believe you. You knew at some point between July and September. Somebody must have had some inkling that something was going wrong somewhere. If you did not, that would cause me even greater concern. Whose responsibility is it to report and whom do you report to and how does this information get sent out?

Mr Davies: Let me speak to your observation first of how we could not have known. I really have to state very clearly that our lack of prescience, which by the way was shared by other forecasters as well, Mr Stockwell, was really occasioned by technical limitations and not by any attempt to withhold or manipulate information. If that was the implication of the observation, I want to categorically state that that was not the case.

The actual fact of the matter is that many of the economic indicators that drive our economic forecasting models and hence influence our revenue and expenditure projections were coming to the fore in the later portion of the month of August. I made reference to the second-quarter national accounts data, which were released on 31 August. We had the breakout of the Kuwait situation at the beginning of the month, which caused oil prices to become highly volatile and no one knew where they were heading. We had a Canadian dollar that was at a 10-year high—or very close to if not a 10-year high—carrying through there in spite of the fact that most forecasters had been projecting that the dollar would have moderated and interest rates would have dropped. In fact, Mr Wilson had indicated that in his budget back in February.

We had labour force numbers for the month of July, reported on 7 August, I believe it was, that showed a very significant decline in employment levels. These were reinforced with the numbers that came out on 7 September for the month of August. That really showed a sea change in the economy and the province.

Another one would be the August retail sales tax numbers. We get our retail sales tax numbers reported to us as the Ministry of Revenue receives the proceeds. Most businesses remit their retail sales tax obligations as close to the end of the payment period as possible for good and logical reasons. So the lion's share of retail sales tax proceeds come in at the end of the month. The numbers that came in in August were very dismal indeed.

We took all of those factors: the 31 August national accounts data, the retail sales tax numbers for the month of August, which started to really confirm the trends we had been seeing but that were quite anomalous earlier in the summer, and the trends we saw in the labour force data. We worked very diligently, I must say, in that period between the receipt of all those pieces of information to have the best possible state-of-the-art snapshot of the economy ready for whichever administration was assuming the duties and responsibilities of office come 10 September.

In that forecast and the forecasts reflected here before you, we used fiscal projections—I express again—not a fiscal plan. In the numbers we even included the 7 September employment data with respect to the month of August. So the numbers we had were the numbers that we used and the numbers that we forwarded, and those numbers were available, sir, in that time period that I mentioned.

Mr Stockwell: The question was the reporting structure and the reporting systems.

Mr Davies: Fine. I will go back to that, then.

The civil servants at the Ministry of Treasury and Economics serve the minister. The minister is the Treasurer of Ontario, who is a member of cabinet, as you know. So through him, we serve the government and through the government, presumably, we serve the people of this province.

The reporting systems that we have, as I mentioned also earlier, are the reporting systems the government has chosen to have, and this has transcended administrations of all three political parties. It is something that is not that common in other jurisdictions, which is a quarterly public reporting of the state of affairs of the fiscal situation of the province. That is the Ontario Finances that I made reference to earlier in my comments, which comes out quarterly. That is the mechanism through which the government and various governments have conveyed in-year revenue and expenditure shifts to the Legislature and to the public.

Mr Stockwell: So your responsibility, then, is to report it to the Treasurer. What he does with it is then really his decision.

Mr Davies: As I understand our system of parliamentary democracy, that is what governments are for.

Mr Stockwell: Okay. That is the way they report. Agreed. I guess there are special circumstances during the election. For instance, if the Premier was walking around or driving around this province talking about a balanced budget, surely you must have had some concern with those statements when you heard them, when the indicators that you had coming in were clearly showing that there was not going to be a balanced budget and probably there was going to be a significant deficit. Would that be a safe assumption?

Mr Davies: No, I do not think it is a safe assumption because that would—

Mr Stockwell: As of even—

Mr Davies: Excuse me, sir, if I can answer the question. That would mean that I, or we collectively, would have to have assumed what an incoming administration would have done with the projections and what alterations, if any,

to a fiscal plan—and this is the distinction I drew earlier—they might occasion to alter those projections.

1120

Mr Stockwell: What major alterations did they make, that I cannot see, that changed the \$23-million surplus into a \$712-million deficit? Point them out to me, the major alterations they changed that affected your numbers.

Mr Davies: I was referring to what alterations would be made by an administration when it had these numbers in hand. The changes that you are citing are what economists call exogenous changes in that they are driven by the trends, by the features of our revenue system as it is currently constructed, and of our expenditure system as it was then currently constructed. Those are within the capacity to be altered.

Mr Stockwell: So I can assume, therefore, from what you have suggested, that for the month of August, for the first week of September, you really had no belief, feeling, numbers to think that the \$23-million surplus was at all in jeopardy.

Mr Davies: Oh, you are asking the question in a very different way. We were concerned, as were many observers in the public press, as were many observers in the general economy, that conditions seemed to be deteriorating, but our job is to have a forecast based on what we believe are solid data, as solid as we can ever get, and those numbers to generate a revised forecast were really not available until the latter portion of August. And even then, as I pointed out, it was a fiscal projection, not a fiscal plan, but the numbers that we rely on were being exposed and being delivered by Statistics Canada and the other sources of information in that latter portion of August.

Mr Stockwell: Did you report these concerns? I suppose you reported these concerns to the Treasurer and the cabinet.

Mr Davies: I have served in the Ontario public service for over 15 years and have been through a number of writ periods, and during writ periods most members of the Legislature attend to affairs in their ridings, I find, and what we address ourselves to then is usually dealing with a minister's staff, and we were advising and providing our regular advice to the policy adviser to the then Treasurer at that time.

Mr Stockwell: And what were you telling them?

Mr Davies: We were indicating that our forecast was still on direction—and it was, through the month of August—that we were still showing a surplus, but we saw signs of weakness, as did everyone else, and we were waiting to gather the information to generate a new economic forecast.

Mr Stockwell: And then, on 10 September, lo and behold, four days after the election, you came out with a revised outlook.

Mr Davies: That is absolutely correct, that we were working on, right through to the morning of 10 September because, for example, the labour force data on which we have to rely was not available until 7 September.

Mr Stockwell: And on 10 September, you were gathering this information with a revised outlook, through the months, through the election—

Mr Scott: Some of which was not available, as he has said, until 7 September.

The Chair: Order, please.

Mr Scott: To be fair, Mr Chairman.

Mr Stockwell: I am trying to be fair, Mr Chairman.

The Chair: Order, please. Mr Stockwell has the floor.

Mr Stockwell: I am trying to be fair. There was some information available. There were certain pieces of information not available. You were reporting to the Treasurer's staff—and I am not suggesting that you were reporting to the Treasurer. You were reporting to the Treasurer's staff, and then this report came out that went—would you consider it a huge slippage, a major change, to go from a \$23-million surplus to a \$712-million deficit?

Mr Davies: Seven hundred million dollars is a significant number, yes.

Mr Stockwell: And that would be a significant change in your department?

Mr Davies: Yes, it would be and, believe me, this has been a year of extremely significant changes because, as I would point out, we were not very accurate even in September in forecasting what was going to happen in this whole entire year, because the economy has certainly degenerated in a much more profound fashion even since September.

The Chair: I just want to remind all members that we have on our list Mr Scott, Mrs O'Neill, Mr Brown. There may be others.

Mr Stockwell: Thank you. I apologize. Go right ahead.

The Chair: I was going to allow you more time, Mr Stockwell.

Mr Stockwell: No, go right ahead.

Mr Scott: Deputy, I apologize for being late, and you may have answered these questions. But just to summarize in my own mind before I come to the questions, what you have been telling us is that you are engaged in a predictive exercise based on a variety of factors, all of which are accumulated after the event that the factors represent, and some time after the event, like a month later.

Mr Davies: Indeed, Mr Scott, and I would say, before you did come in, I did address some of those matters, and in many cases it is not a month, it is two, three or even four months.

Mr Scott: Yes, and what you are predicting when you make your budgetary forecast is what the economic position of the provincial finances will be in effect one year hence.

Mr Davies: That is the essence of budget forecast in the spring.

Mr Scott: And not only is there a risk that the predictive capacity, being human, may fail, but there is a risk that events may occur that were not anticipated, leading to revisions.

Mr Davies: Indeed, and every year we have revisions.

Mr Scott: Yes, and the quarterly assessments that you make are efforts to update the prediction that was contained in the budget.

Mr Davies: Again, I might be covering ground reviewed earlier. The quarterly reports that I was referring to a moment ago report on those revisions. We do ongoing internal monitoring and we produce, as it turns out, as a normal course, quarterly economic forecasts as well.

Mr Scott: Yes. But the notion is that you begin by predicting what will happen to the financial picture of the province 12 months hence, and the closer you get to that 12-month horizon, the more accurate you are going to be because more actual events, in terms of revenue and expenditure, will have occurred that can be precisely measured and do not require prediction.

Mr Davies: Exactly.

Mr Scott: Now, let me ask you this. This is an ongoing exercise in which all governments of Ontario have been engaged annually. Right?

Mr Davies: Yes.

Mr Scott: And is it not true that as you go through this exercise, there is a capacity in government, an important capacity, to make policy and administrative changes that will correct for the predicted result?

Mr Davies: Certainly there is a capacity to change. I do not know if I would quite use the words "correct for," because the essence of government is to take actions that are needed, or seem to be needed, by the government to meet the needs of the province, but I would hesitate to use the word "correct."

Mr Scott: Let me put it this way. How many days' revenue does \$700 million represent?

Mr Davies: I would prefer to do the calculation that is—

Mr Scott: Okay, let us say roughly five.

Mr Davies: In that order, yes.

Mr Scott: All right. How many days' expenditure does \$700 million represent?

Mr Davies: Roughly the same, given—

Mr Scott: All right. So what we are talking about—my friends would call it an error; in light of what you have said, I would not call it an error—is that the deficit that your 10 September statement predicted was a deficit that represented essentially five days of either revenue or expenditure out of 365.

Mr Davies: That is a way of putting it. I do not mind calling it an error, because with the nature of forecasting you always have errors.

Mr Scott: All right. Now, what I am saying to you is that an incoming Treasurer or an outgoing Treasurer, the Treasurer, confronted by that, may be able and will want to look at making adjustments in programs or policies of the government to offset that. Is that not so?

Mr Davies: Or may choose, depending on the sense that that government has of the needs of the province, not to offset but to pursue other policies.

Mr Scott: Exactly. I am not suggesting for a moment—a group of public servants—that this would ever be contemplated,

but if there were a freeze, for example, on public-service salaries—you will be delighted to hear I am not in government and have no influence in these matters at all, but if on 1 October—

1130

Mr Mammoliti: It would be scary if you were.

Mr Scott: It was scary when I was. But if on 1 October the government of the day, whether it was ours or a New Democratic Party government, had announced—and I am not recommending they should—a freeze on public service increments for that year, it would not be impossible to deliver a balanced budget.

Interjection: Yes, very true.

Mr Scott: Is that not right?

Mr Davies: I would have to do the arithmetic on that particular example but I sense you are using that as an example of one type of policy change to alter an expenditure package.

Mr Scott: And in the same way, a government on 1 October, ours or somebody else's, that was anxious to offset the deficit and restore a balanced budget could ditch some current programs that it judged were not an important priority to the tune of \$700 million.

Mr Davies: In government, governments are there to govern.

Mrs Y. O'Neill: Everything is possible.

Mr Scott: Yes. I will not even refer to the other possibility which is so horrendous that it should not even be mentioned: The possibility of raising taxes if you believe in a balanced budget. But that is the way the process works. Governments make adjustments in light of their determination that there should either be a deficit or a balanced budget. Is that right?

Mr Davies: That has been my experience.

Mr Scott: Yes. And so the question for any party in government is: Do you want a balanced budget or do you not? Because you have the levers of power that will permit you to achieve whatever it is you want. Right?

Mr Davies: I cannot deny anything you have said.

Mr Scott: Thank you.

Mrs Y. O'Neill: I think, as was pointed out earlier, Deputy, you have not used exactly the same categories of the budget or lines of the budget in all these statements. But I would like to look at a couple of them if you would tell me a bit more about them. Newly appearing in the 11 October Treasurer's statement is the contingency fund, and that seems to almost balance out some of the things we have been talking about. I wanted you to tell me a bit about what is in that contingency fund.

Mr Davies: I wonder if I could actually take a moment to find or have someone find the statement of 11 October. I can give you a thumbnail sketch, but what the Treasurer said in the statement is what really—

Mrs Y. O'Neill: Okay, I have a couple of other questions that might be easier.

Mr Davies: I would suggest that what the Treasurer said in the statement is the appropriate language to use.

But the contingency fund, as I recall his statement, he indicated there were two very large issues that were then outstanding, but about which negotiations were being pursued. One was the Stadium Corp of Ontario's circumstance and one was the negotiations with the Ontario Medical Association. I believe those two elements, combined with some other issues, were rolled into the one number of the contingency fund.

Mrs Y. O'Neill: So this was a new policy decision, to make this in-year adjustment upwards for expenditure, basically.

Mr Davies: Well, to make provision for it.

Mrs Y. O'Neill: Okay. Could I go to the next page on 31 December. These are just acronyms I do not know. PIT?

Mr Davies: Personal income tax.

Mrs Y. O'Neill: Oh, that is the one we were talking about earlier.

Mr Davies: Yes.

Mrs Y. O'Neill: This was the federal adjustment?

Mr Davies: That is correct.

Mrs Y. O'Neill: And the LTT?

Mr Davies: That is the land transfer tax.

Mrs Y. O'Neill: Okay, and PDI?

Mr Davies: Public debt interest, the interest on borrowings.

Mrs Y. O'Neill: Now, could you say a little bit about why that figure appears as it does there?

Mr Davies: When one does not anticipate running a deficit, borrowing is not required. When borrowing commences, interest payments also commence, usually with a lag because the first coupon, as it is called on most bonds, is payable six months hence.

Mrs Y. O'Neill: As you say, though, you are getting that and have been able to obtain that at very comparable rates.

Mr Davies: This year the markets have been quite buoyant for us and for other borrowers.

Mrs Y. O'Neill: Okay, thank you very much. That is fine for me.

Mr Brown: I think Mrs O'Neill has asked most of the questions that I was going to ask. If I could just for one moment, though, when we talk about the contingency fund being in there and the two reasons that you gave, the doctors and the stadium, could you tell us if during the fiscal year 1990-91 those were actually made?

Mr Davies: Those matters are still under discussion, as you know from the press. I really would have to leave that for the Treasurer to address in his upcoming budget, which is very soon.

Mr Brown: You just told me that you account for all your business on the basis of when you receive the cash or, I assume, expend the cash. You should know whether you expended the cash before 31 March or whether you did not.

Mr Davies: Our accounts are just in the process of being finalized now. It is a very large organization with many different ministries and the accounts are still coming in.

Mr Brown: Now, come on.

Mr Davies: If you are asking me with specific reference to the Ontario Medical Association negotiation whether payments were made in the last year, the answer is no.

Mr Brown: What about the stadium corporation? Were there money paid? That is an item you would know.

Mr Davies: The province has assumed the responsibility for advancing the funds to the stadium corporation. That was done in the months of February and March when we basically replaced—or February really—the Canadian Imperial Bank of Commerce as the provider of funds to the stadium corporation.

Mr Brown: So in that capacity, does that mean you spent the funds? In your accounting system? That is what I am trying to get at.

Mr Davies: No, that will be a determination as to whether we think those funds are recoverable. And that is a matter that is being finalized.

Mr Brown: My other question is about the UTDC. This was a policy change on 11 October. The UTDC item I do not believe appeared before 11 October as money that was to be expended in this fiscal year. Obviously, there was—at least I think there was a policy decision to spend that money this fiscal year rather than, as I believe you understood the obligation to be actually, for the next fiscal year. But I guess that is a policy change. Is it a policy change? That is what I am really asking.

Mr Davies: Yes, I am not trained at law and I do not know the exact legal conditions of when the obligations under the guarantee would have to be honoured. But there was some flexibility as to when. There was not a question of whether it was, it was a question of when.

Mr Brown: Yes. So what you are telling me is that it is a question of whether you spent it—the policy decision was changed to say, "We will spend it in 1990-91 rather than 1991-92," because it did not appear in 1990-91. Is that fair?

Mr Davies: Yes.

Excuse me, Mr Chairman. I do not know and we are at your disposal; there was a third element of Mr Turnbull's original motion which was the historical comparisons. We would be pleased just to table that and leave it with the committee if that is useful.

Mr Turnbull: I will have some questions on that. But I would like just to ask the deputy: In your long years of service with the Ontario government, have you ever seen as rapid and as serious a deterioration in the fiscal position as we saw in these few weeks?

Mr Davies: I am going to turn to my friends the economists here because they might have some data on the 1982-83 downturn. The nature or the steepness of the curve I think was probably as steep. Whether it happened in the same sort of time period of reporting is another question. By that I mean, did the information happen to coincide with the end of the accounting period for our expenditures as well?

Mr Turnbull: I am talking essentially about a six- to eight-week time frame that we have seen such a rapid deterioration in conditions.

Mr Davies: Or we altered our forecasts.

Mr Silk: I am going from memory now, but definitely in late 1981 there was a very marked and rapid deterioration in the economy. If I can just recall a bit of history here, in 1980 there were very high interest rates in the United States and in Canada and we had a mini-recession. When we came out of that with some surprising buoyancy in late 1980 and early 1981. It looked as if the economy could just continue, not at those high rates, but continue growing. Suddenly, interest rates started rising again in a very short period of time and I recall definitely the federal government's budget at that time in late November or early December 1981 did not expect the 1982 recession that followed. Our budgeting cycle happens to be different, and so when we came out with our assessment of 1982, that was after that evidence.

140

Mr Turnbull: I am talking about in such a tight time frame in Ontario. Have we ever seen as rapid a deterioration in the fiscal position?

Mr Silk: I would have to defer to somebody else. But in the economy, I would say that if you had asked economic forecasters in late 1981 to anticipate the decline, to predict what might have happened in 1982, I think that all of us would have been very off base. We would have said that the economy was going to grow moderately in 1982. We got the biggest recession in the post-war period.

Mr Turnbull: Okay. Let's get back to the deputy. If we are going to look back and we are going to say potentially in the 1981-82 recession we had something of a similar nature but you are not even sure as to whether it was such a rapid deterioration, it seems to me that it would be reasonable to bring this urgently to the attention of the Treasurer. Quite frankly, I find it beyond the realms of credibility that this was not brought home to the Treasurer, and I think there is a general sense in the public and this question has to be asked and I have to ask it very bluntly. Is it conceivable that when we are seeing such a rapid erosion in our position that this is not brought to the attention of the Treasury?

I want to refer back to the comment that you made about reporting it to the Treasurer's staff. Surely there would be an anticipation that the Treasurer's staff would report that immediately to him and remedial action would at least be started or some contingency plans. Also, the suggestion that during an election this should not be brought—

Mr Drainville: Mr Chairman, I just want to make a couple of comments. The one comment is that the deputy minister and his support staff have been very clear in their responses up to this point in time. We are getting, I would say, very close to the point where we are asking the deputy minister and support staff to make comments on what happened to any of the information that they gave to the Treasurer. They cannot make any deposition as to that reality.

The second point is that these gentlemen originally, when they came today, asked for half an hour of time to present their report. Right from the beginning, there were many questions and that is fair enough. We decided we would go with that format. I have no problems with that, Mr Chair, except that we are coming again very close to the clock and we are going to be in the situation in which these gentlemen have a section that they want to share with this committee—and I am quite interested in what they have to say on that basis—and this repetition of the argument, I think, is not particularly helping the committee at this stage.

So I would ask that we quickly move on to the section that they are prepared to give to us and then we can continue on, if Mr Turnbull feels, if we have any time left, with the questioning on the basis that he has begun.

The Chair: Thank you for the advice. Mr Turnbull?

Mr Turnbull: It seems inconceivable that this would not be brought to the Treasurer's notice, and your suggestion that during an election there seems to be a tradition that you do not bring it to the attention of the senior politicians, the cabinet, is an alarming statement. I am certainly not blaming you for it, but I would just like to draw your comments on how we can possibly govern our country and our province and just have the province float for the period of an election, if that is the suggestion and if that is in fact what happens.

Mr Davies: First of all, let me correct any misimpression I might have left with you that reflects that last clause of your question. That is not what I was implying. What I was implying and what I was intending to state was—and I think it is critical to identify—in your question you kept saying, "Bring this to the attention of the Treasurer." I am not sure exactly what the "this" was that you were referring to. Were you referring to the fact that a war had broken out or the potential for a very serious war was arising in the Middle East? That the Canadian dollar was staying much higher and interest rates were staying much higher than the federal government had projected? That the July labour force numbers—all of which were public, by the way, and all of which were out—were as bad as they were? Because the "this" that counted to me are the "these" numbers that came at the end of August, that we then moved very rapidly and worked weekends, believe me, to gather together, to assemble a snapshot, state-of-the-art forecast for an incoming administration. Those numbers came through in the course of the latter portion of August and by that I mean, I guess, the retail sales numbers would have been the week of the 24th, the 25th, and the national accounts were right on 31 August. The August labour force numbers were 7 September. I have gone over some of those already and there were others. We gathered all those together right for 10 September. So the "this" that I would have been bringing to the attention of the Treasurer, as you are suggesting, were not things that were around in the time frame that I think you were alluding to.

Mr Turnbull: I would assume this—

The Vice-Chair: Mr Turnbull, the Chair would just like to help out and remind you, as Mr Drainville did, that

this is your party's 123 and these gentlemen will only be with us for a while longer. So I would just remind you that, while the Chair is quite lenient, it is your time.

Mr Turnbull: Thank you, Mr Chair. I think it would be useful to move on.

Mrs Y. O'Neill: Before you move on, I thought there was an intimation that maybe you had further details on this contingency fund. Did you find anything as you looked in your briefing books or whatever you call your books?

Mr Davies: I am sorry. I do not know if we have a copy of the October announcement.

Mrs Y. O'Neill: I just wondered if you had more of a breakdown of that.

Mr Turnbull: Perhaps you could submit that.

Mrs Y. O'Neill: That would be fine.

Mr Davies: If I could beg the indulgence of the Chair, I would just like to conclude in my answer to Mr Turnbull. It is our job, or at least I view it as our job to ensure that the best possible information is available. We cannot reforecast without having the data on which to base a reforecast, and those are the data that are generated through these series that come forward at specific times of specific months and at various times throughout the year. Those hard numbers on which to base a forecast were not there until the end of the month.

Mrs Y. O'Neill: If I may just say, Mr Brown, I really appreciate what has just been said and I think it was general knowledge, but there is general knowledge out in the news. You people have to have actual figures from actual communities in this province. Certainly as I went door-to-door, as we all did in August, everything was holding true, but people were beginning to say, "I have got a two-week severance notice," and, "My bank is foreclosing." I was actually running into those situations. But until those data were compiled—and I do not know whether it was coincidental, and certainly in some ways it was with the actual dates on which government was changing in this province—but I do think that things were changing drastically for many reasons and I think they have been well-explained to us. I am sure, even to the end of August, the figures you began with in July were holding. It was as these things came—and you worked on them, as you said, even on the weekends—at the beginning of September the data were there to support the change that had taken place in that long, hot month of August.

1150

Mr Davies: The third handout, which I will ask the clerk to distribute, attempts to deal—and this was a difficult item, Mr Turnbull, and I apologize in advance for perhaps not having as complete a database as you would have liked, but it is not the sort of information that we historically assemble. But we have done as best we could, and I think it will be of some assistance to you. This is the section of the motion or of the request that deals with historical patterns of how our variances to our forecast this year compared to prior years, and as well, our performance compared to other provinces.

The first three tables—this handout has a total of five tables—relate to our economic forecast. I had them typed in the upper right-hand corner 1, 2, 3, 4, 5. Table 1 says "Budget Forecast Comparisons, 1990." So, this is the comparison to other provinces, sort of your last question first.

This is for provinces for which information was available. As one can see from this table, most jurisdictions overstated growth in 1990. The overestimation in Ontario was the largest. I guess we share that dubious distinction with Newfoundland. But as I stated earlier, I think that reflects the really severe recession that has hit Ontario more than some of the other jurisdictions.

Table 2—and please stop me if there are any questions—is a time series table going back to 1980, so covering the entire decade, that shows the difference in percentage points between Treasury's budget forecast and the year-end actual results and the economic variables, the four key variables: growth, inflation, employment and unemployment. On the far right-hand side we have averaged out the change over the years.

Mr Turnbull: I am sorry. Perhaps you could explain this particular table.

Mr Silk: In every case what we are doing is looking at what we had forecast in our spring budget—let's take the 1980 number—what we presented in the 1980 spring budget as being the real growth number, and then the difference between that growth number, let's say it was 2.1, and the actual that turned out at the year-end. We knew what the actual was, say it was 1.6. That difference suggests that we overstated, we missed the mark, by half a percentage point.

Mr Turnbull: This is plus and minus numbers?

Mr Silk: Yes.

Mr Scott: But they are treated equally, are they? It is the—if you can use this phrase—the error, not whether it led to a benefit or disbenefit to the Treasury?

Mr Silk: Yes.

Mr Scott: It is the error?

Mr Silk: Yes, and in fact I think the point we make at the bottom of that table is saying that in a sense we have tended to underestimate the strengths and we have also tended to underestimate the decline. So, we have made errors, as you can see, and in all cases, with the expansion that takes place, we tend to be conservative in terms of underestimating the strength that is taking place. When the decline takes place, we recognize that, but we do not tend to estimate the depth of the decline or the magnitude.

Mr Turnbull: Is there any significance between the years when there is an election and the years when there is not an election in terms of whether it is plus or minus?

Mr Silk: I do not think so. I do not recall an election in 1982.

Mr Christie: Mr Turnbull, if I could just add, aside from apologizing for not actually knowing offhand where the elections were here—I am sure we could find that out quickly—the pattern that Qaid has cited in terms of underestimating the declines and underestimating the strength of recoveries is quite typical not only of our forecasts but

the forecasts of most other people. The economy simply tends to be more volatile in its actual behaviour than anyone expects in a forecasting model or some other device. So, it is a typical forecasting result.

The Chair: Hearing the bells calling the members for vote and being so close to 12 of the clock, I am going to

adjourn the standing committee on general government and we will proceed where we left off this morning on another day. The committee stands adjourned.

The committee adjourned at 1155.

CONTENTS

Thursday 18 April 1991

Fiscal plan and financial projections . . . . .	.G-89
Ministry of Treasury and Economics . . . . .	.G-89
Adjournment . . . . .	.G-90

STANDING COMMITTEE ON GENERAL GOVERNMENT

Chair: Mancini, Remo (Essex South L)**Vice-Chair:** Brown, Michael A. (Algoma-Manitoulin L)

Abel, Donald (Wentworth North NDP)

Bisson, Gilles (Cochrane South NDP)

Drainville, Dennis (Victoria-Haliburton NDP)

Duignan, Noel (Halton North NDP)

Harrington, Margaret H. (Niagara Falls NDP)

Mammoliti, George (Yorkview NDP)

Murdoch, Bill (Grey PC)

O'Neill, Yvonne (Ottawa Rideau L)

Scott, Ian G. (St George-St. David L)

Turnbull, David (York Mills PC)

Substitutions:

Christopherson, David (Hamilton Centre NDP) for Mr Harrington

Stockwell, Chris (Etobicoke West PC) for Mr B. Murdoch

Clerk: Deller, Deborah**Staff:** Rampersad, David, Research Officer, Legislative Research Service



G-21 1991

G-21 1991

ISSN 1180-5218

Legislative Assembly of Ontario

First Session, 35th Parliament

Official Report of Debates (Hansard)

Thursday 6 June 1991

Standing committee on
general government

Cross-border shopping

Assemblée législative de l'Ontario

Première session, 35^e législature

Journal des débats (Hansard)

Le jeudi 6 juin 1991

Comité permanent des
affaires gouvernementales

Magasinage outre-frontière



Chair: Remo Mancini
Clerk: Deborah Deller

Président : Remo Mancini
Greffier : Deborah Deller



Table of Contents

Table of Contents for proceedings reported in this issue appears at the back, together with a list of committee members and other members taking part.

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at (416) 325-7400.

Languages in Hansard

Hansard reports all debates in English or French as spoken by the participants. It does not translate remarks made in either language. Headings and tables of contents reflect language use.

Subscriptions

Subscription information may be obtained from: Sessional Subscription Service, Publications Ontario, Ministry of Government Services, 5th Floor, 880 Bay Street, Toronto, Ontario, M7A 1N8. Phone (416) 326-5310, 326-5311 or toll-free 1 (800) 668-9938.

Table des matières

La table des matières des séances rapportées dans ce numéro se trouve à l'arrière de ce fascicule, ainsi qu'une liste des membres du comité et des autres députés ayant participé.

Il existe un index cumulatif des numéros précédents. Les renseignements qu'il contient sont à votre disposition par téléphone auprès des employés de l'index du Journal des débats au (416) 325-7400.

Langues paraissant dans le Journal des débats

Le Journal des débats rapporte en anglais ou en français les débats, selon la langue utilisée par les participants. Les remarques faites en l'une ou l'autre langue ne sont pas traduites. La langue des en-têtes et de la table des matières reflète la langue utilisée.

Abonnements

Pour les abonnements, veuillez prendre contact avec le Service d'abonnement parlementaire, Publications Ontario, ministère des Services gouvernementaux, 5^e étage, 880, rue Bay, Toronto (Ontario) M7A 1N8. Par téléphone : (416) 326-5310, 326-5311 ou, sans frais : 1 (800) 668-9938.

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON GENERAL GOVERNMENT

Thursday 6 June 1991

The committee met at 1007 in room 151.

CROSS-BORDER SHOPPING

Clerk of the Committee: Honourable members, it is my duty to call upon you to elect an Acting Chair for today's meeting. May I have nominations, please?

Mrs Y. O'Neill: I would like to nominate for Acting Chair at today's meeting Joe Cordiano.

Clerk of the Committee: Are there any further nominations? All those in favour of Mr Cordiano taking the chair, please indicate. Mr Cordiano has been elected Acting Chair.

The Acting Chair: Thank you very much. It is my pleasure to be here this morning.

The first matter we have to deal with is the third report of the subcommittee. The subcommittee recommends that the committee give unanimous consent to withdraw the matter designated by Mr Turnbull pursuant to standing order 123. Does the committee agree? Agreed? Okay.

Now we will deal with the matter before us this morning, the matter designated by Mrs O'Neill relating to cross-border shopping, the current status of the interministerial review of the impacts of cross-border shopping, particularly with regard to the effect on job losses, decreased sales, tax avoidance, and that the committee consult with the following people.

MINISTRY OF REVENUE

The Acting Chair: The first people before us this morning are the Honourable Shelley Wark-Martyn and the Deputy Minister of Revenue, Michele Noble. Welcome to the committee.

Hon Ms Wark-Martyn: Thank you. I would like to thank all of you for the invitation this morning to come and speak with you. I would also like to introduce Burke Williams, to my right, who is the director of the retail sales tax branch with the ministry, and Bob Moxley, to my left, who is the director of motor fuels and tobacco tax.

My understanding from my invitation here this morning was that it was to talk with you and discuss the meeting that I had with Otto Jelinek, the Minister of National Revenue, on 16 May. I will provide you now with a summary of that meeting.

During the discussion, Mr Jelinek started off by saying that he regarded the cross-border shopping issue as a societal one and one that was neither a federal, provincial nor municipal issue. He said that the traffic is growing monthly; there was a 24% increase in traffic in April alone.

We also discussed the customs approach regarding the Peace Arch Customs Entry project in BC, the Customs 2000 document, and the meeting with the Ontario mayors that was held with Mr Jelinek. There has also been a small committee of federal ministers, made up of Mr Mazankowski, Mr Wilson, Mr Hockin and Mr Jelinek,

who are trying to develop a broader response to the cross-border shopping issue.

Mr Jelinek has agreed to attend another mayors' meeting in mid-June to put on record shareholders' concerns and what can be done. He explained that, contrary to certain media reports, he is not organizing the upcoming meeting.

I emphasized to him the concerns of the Ontario government for the effect on border communities and indicated that I was also willing to meet with the mayors at any time they desired that meeting to take place.

We raised and discussed the possible collection of retail sales tax by customs, putting in also the returning-resident exemptions and other measures to simplify the collection by customs officers. This was refused by Mr Jelinek in that he said he did not believe it would be cost-effective. He was more concerned with relieving congestion at the border points by becoming more efficient through better technology and programs under the PACE project.

Mr Jelinek said that there could be no border collection without the GST and RST harmonization, but allowed that there could be other options, namely, the exchange of information. Our understanding is that this would go under a B-15 form we would get. There would be some costs involved by us, and because these forms are not checked for accuracy by the customs officials as they are going through the border crossings, we are not sure at this point how efficient and what the revenues brought back to the province would be by doing it this way. We are still looking into this with the Ministry of National Revenue.

We also talked about other possible areas of co-operation, namely, with the tourist rebate forms, because there have been some problems with tourists not understanding and having to go through a lot of paperwork to get the rebates from us. The federal government was talking about a simpler way of doing those kinds of things.

We agreed that we would look at the exchange of information that was brought on to the table by the Minister of National Revenue, and my officials are working on that right now.

At the close of the meeting, after much discussion, Mr Jelinek made it very clear that border collection of the retail sales tax at customs would not take place without RST and GST harmonization. No matter what simplifications we were prepared to offer at border points so that this could happen, he would not do it unless it was offered throughout the province.

Mr Bisson: I find that somewhat interesting in regard to the response you got from the federal minister on the harmonization question. If we were as a province able to put into place the mechanisms to assist the federal government to collect that tax, is it the opinion of the ministry that it would be basically what the federal minister is saying, that

it would be too difficult, or do you just think that is a copout on his part?

Hon Ms Wark-Martyn: I think it is sort of a copout.

The other thing we have to understand is that, because of the increase in cross-border shopping, the federal government is also not staffed at the border points to collect its own GST and its own taxes coming through. That was also a concern that he said. "Before we start looking at your problems, we have to deal with our own right now, and that is that we are losing some of our own revenues because we are not accurately and appropriately staffed to be collecting our own revenues as people are coming back through the borders."

Mr Bisson: If the provincial sales tax was collected at the border along with the GST, we would obviously, hopefully, keep them separate. Are there any kind of estimates about what that would mean in regard to curtailing, stopping, the amount of cross-border shopping? Is there anything along that line that has been done?

Hon Ms Wark-Martyn: Stopping? No. My officials and I do not believe that if the tax were collected at the borders we would actually stop the problem.

Mr Bisson: No idea on how much it would curtail it?

Ms Noble: We do not have any estimates of how much of the shopping volume would be curtailed, because what that really is doing is trying to predict a consumer response to an additional 8% on a percentage of the goods they are bringing back, and at this point the ministry has not been in a position to work through a predictor of what the impact would be on consumer decisions in terms of going across the border to shop.

I think the other issue there is the degree to which consumers are going across the border for items such as gasoline or food purchases, which of course would not attract the provincial sales tax, and therefore collection at the border point of provincial sales tax would not impact those consumers who are going across for those items.

The Acting Chair: Members of the committee, I just want to point out at this time that we are going to rotate questions on an equal basis, so I am going to go from one party to the other and each party will have its designated time. I will call on Mrs O'Neill at this time.

Mrs Y. O'Neill: Mr Chairman, I have some difficulty with that ruling you have just made, because usually in a 123 the party that brings it does get as many questions as it wants. Certainly that is the way we did the PC 123 when we had the Treasury officials in. But I will abide by your ruling and I hope I can get my answers quickly.

The Acting Chair: In response to that, I have worked on other committees and we—

Mrs Y. O'Neill: This is a different matter. This is an opposition day type of event.

The Acting Chair: No, no, the matter I am talking about that I have dealt with was an opposition 12-hour time slot, and the clerk informs me that we do have to divide the time equally among all three parties.

Mrs Y. O'Neill: Okay. I maybe could be corrected on that.

The Acting Chair: It is subject to the committee's consent.

Mr Turnbull: Mr Chair, I would like to support Mr O'Neill in her request. It is their opposition motion, and to the extent that we are allowed to get some questions in, I think it is only fair that, since they brought the matter, they should be able to get a suitable number of questions in.

The Acting Chair: Again, I am subject to what the wishes of the committee are. We can go on that basis if all are in agreement. Do we have agreement for that?

Interjections: No.

The Acting Chair: There you go. We will proceed on an equal basis.

Mrs Y. O'Neill: I will work within the parameters of the Chair.

Would you consider your ministry the lead ministry? You have said in the House that this is a complex issue, it is interministerial. Would you consider your ministry the lead ministry, or has the Premier given you that kind of responsibility?

Hon Ms Wark-Martyn: No. The Minister of Industry, Trade and Technology has been given the lead on this issue as the lead minister.

Mrs Y. O'Neill: You indicated, and you indicated in an answer to one of my questions, that you have been offered exchange of information with the feds. You seem to be telling us you have not made a decision on that; is that correct?

Hon Ms Wark-Martyn: That is correct.

Mrs Y. O'Neill: I hope you will pursue that, simply because other provinces seem to be doing it and it certainly is what has been recommended to you by more than one group in this province.

Was there any indication in your meeting with Mr Jelinek about the location of the express lane in Ontario? I understood that decision was very imminent.

Hon Ms Wark-Martyn: We discussed the express lanes in Ontario, and some of the mayors, as you probably know, are asking for express lanes, but they are asking for express lanes for tourists and buses and truckers only. But the express lanes that would go in, from my understanding, would cover all people and not just the ones that the mayors have asked to be covered.

Mrs Y. O'Neill: You have no indication of where those would be, or if the one would be in Ontario this year?

Hon Ms Wark-Martyn: He said that he would work with the community and I asked that we also be in on the discussion so that we also would know which community it was going into.

Mrs Y. O'Neill: Will that be in 1991?

Hon Ms Wark-Martyn: He has not given us a date on that; no specifics other than he would be working with the community involved.

Mrs Y. O'Neill: From what you have said to this point, and certainly you can help me understand if I am thinking correctly, you are not looking at any creative tax plan at this moment to deal with this problem, whether it

the graduated gas tax, whether it be harmonization, whether it be collection at the border. You have not directed your staff to do impact studies or to examine what I consider very serious recommendations from several groups in the communities.

020

Hon Ms Wark-Martyn: No, I have not personally and my staff have not. The Treasurer would have to initiate that and would ask his staff to do that, the changes of the taxes.

Mrs Y. O'Neill: All right, thank you. Mr Chairman, my colleague Mr Daigeler has some questions.

The Acting Chair: I am first going to turn to Mr Turnbull and then Mr Daigeler and Mr Bisson.

Mr Turnbull: Minister, you have stated that you have had discussions with the federal government and it has indicated that it is prepared to collect the taxation if you harmonize taxes.

Hon Ms Wark-Martyn: They have indicated that they would be prepared to discuss the collection of retail sales tax at the border if we harmonize as a province with the GST.

Mr Turnbull: But it is a fact they have already agreed with one province to collect. Not to talk about it; they are going to do it.

Hon Ms Wark-Martyn: Saskatchewan. They are going through the details now and they are expected to implement it in January 1992.

Mr Turnbull: Do you have any philosophical disagreement with the concept of simplifying taxes in Canada?

Hon Ms Wark-Martyn: No.

Mr Turnbull: Surely harmonization makes eminently good sense?

Hon Ms Wark-Martyn: No, I do not agree with you on that point. I think harmonization would mean applying the provincial sales tax to the same list of goods and services to which the federal tax applies, which would mean at this point expanding that tax in the province of Ontario in a time of recession. I do not believe that is a good thing to be doing.

Mr Turnbull: So you are saying that at a time of recession you are against applying extra taxes and yet you have brought in a budget which substantially increases the amount of gasoline tax. Is that not correct?

Hon Ms Wark-Martyn: My understanding is that—

Mr Turnbull: Is that not correct, minister?

Mr Abel: Let her answer.

Hon Ms Wark-Martyn: My understanding is that the Treasurer is coming in, and at that point you can speak to him about the gasoline tax because tax incentives and tax discussions come from the Treasurer and my role and my ministry's role is to implement those taxes.

Mr Turnbull: It is a fact that Ontario gasoline taxes are so high, the cost—

Mr Mammoliti: On a point of order, Mr Chair: He is relating to tax again. He got a specific answer from the minister referring to the Treasurer—

Mr Turnbull: That is not a point of order, Mr Chair.

Mr Abel: Let the Chair decide.

The Acting Chair: That is not a point of order, Mr Mammoliti, but I would caution members to stick to the subject matter before us. I believe we are veering off topic a little bit.

Mr Turnbull: Mr Chair, I would suggest that the question of taxation and the collection of it are so intertwined that it is impossible to discuss one without the other.

Mr Duignan: Feeble Tory minds.

The Acting Chair: Order, please.

Mr Turnbull: Mr Chair, I would ask you to request that Mr Duignan withdraw that remark.

The Acting Chair: Mr Duignan, would you withdraw that remark?

Mr Duignan: I have no intention of withdrawing that remark.

The Acting Chair: I would rule that kind of remark completely out of order at a committee meeting, or in the House, and I would ask that you withdraw that.

Mr Duignan: For the sake of getting on with the committee hearings, I withdraw the remark but I—

The Acting Chair: Thank you. Mr Turnbull, would you continue please?

Mr Turnbull: You have said that you are against raising extra taxes by way of harmonization and yet we have a government which has now raised gasoline taxes to a point at which it is a fact that federal gasoline taxes in Canada are less than federal gasoline taxes in the US. Is that not correct, Minister?

Hon Ms Wark-Martyn: Yes, it is.

Mr Turnbull: The problem we have seen with various reports is that one of the most attractive items in the US is gasoline. That is one of the main magnets that gets people to go across in the first place. Is that correct, Minister?

Hon Ms Wark-Martyn: That is correct.

Mr Turnbull: Yet at a time that you are saying you are not prepared to harmonize because of tax burden, you are increasing the gasoline tax so that now the gasoline tax is so high in Ontario we actually pay an amount which attracts people to go across to the US. By your nodding your head, I take it you are agreeing with that.

Hon Ms Wark-Martyn: I think—and I must also note that the federal minister also agreed with me—changing the gasoline tax either federally or provincially will not stop or decrease the cross-border shopping issue. We cannot compete with the US gas prices. Even if we decreased the taxes, the people would still go there to shop.

Mr Turnbull: We are looking at how we can cut down on the amount of cross-border shopping and the loss of revenue to this province, are we not? That being the case, surely if we were to accommodate the federal government—which you may have some philosophical difficulty with, accommodating the federal government on anything—by reducing the amount of gas tax and getting the tax harmonized and then collecting it as they come over the border

you can have it revenue-neutral but at the same time more beneficial to this province.

Hon Ms Wark-Martyn: I am going to ask my person from the ministry on the gas to discuss that with you, because there are some points, and we have discussed those, and there are some reasons that would not go through or happen.

Mr Moxley: You are talking explicitly about a reduction in particular areas?

Mr Turnbull: No. I am saying that if we were to achieve, be it in a targeted area or across the board, if we were to move that amount of burden which is now on gasoline taxes over to those items which would be picked up if we harmonized, surely you could arrange a scenario where it would be revenue-neutral but at the same time would achieve the goal of getting the federal government to collect the taxes.

Mr Moxley: It would be very difficult for me to really comment on whether we could achieve that kind of scenario. You are suggesting reduce the gasoline tax and replace that revenue with the revenue that you would receive by taxing things under RST that are not currently taxed, by harmonizing.

Mr Turnbull: Yes, exactly. Look, at the moment we have two problems that we can identify.

One is that cheap gasoline in the US acts as a magnet to get people down there. There was a survey done by one of the major chartered accountant companies, and this was prior to the big gasoline tax hikes in the last budget. Prior to that, it was identified that gasoline was either the number one or number two item which initially attracted people. When they had a shopping list of things saying, "Which is your first choice as to why you go?" gasoline was identified as either the first or second item. Okay, that is a problem that is drawing people to the US.

On the other hand, your own government, Minister, has suggested that it would be good if taxes were collected at the border and yet the federal government is saying it will only do it if it simplifies things, if there is harmonization.

Surely the two objectives can mesh very nicely if there was some goodwill between your government and the federal government. I think this is one of the problems a lot of people in Canada are concerned about, that different levels of government are going at each other instead of studying in practical terms how we can achieve mutually beneficial goals.

Hon Ms Wark-Martyn: The other thing I have to add here is that we did offer to simplify it at the border points so they could collect it at the border points. The response was, "No. You have to do it throughout the whole province." I do not really know how much the goodwill is there to actually co-operate and do that.

Mr Turnbull: Possibly you need to do it across the whole province, because we have the problem with gasoline taxes right across the province. The people in northern Ontario are certainly suffering from this.

The Chair: Mr Turnbull, one quick response and then I am going to move on to other members' questions.

Ms Noble: I was just going to add one additional piece of information to what the minister indicated. I think if we are looking at the collection of retail sales tax at the border, the issue is goods. As the minister indicated, the province did identify a willingness to look at some adjustments in terms of the taxes on the goods sector. Obviously full harmonization with the goods and services tax would imply that the province would in fact have to harmonize the tax base to bring the services sector in, and I think it is that issue which is of concern and which the minister has been expressing.

Mr Daigeler: Could you expand a little bit on that?

Mrs Y. O'Neill: Before you start, Mr Chair, could you tell us of the time frames we are working under at this point, how many minutes for each party?

1030

The Acting Chair: Okay. We started at 10 after 10. We have until 10 to 11 approximately.

Mrs Y. O'Neill: So we have some more time left?

The Acting Chair: We have about 15 or 20 minutes left.

Mrs Y. O'Neill: I was just wondering how many minutes each party has left. I guess, as you said, you were keeping very close touch.

The Acting Chair: We were allocated 45 minutes for this presentation.

Mr Mammoliti: Just on a point of clarification, I guess, are we going around? At this point, are we coming back to our—

The Acting Chair: As I stated from the outset, I am going to apportion time equally, to the best of my ability of course, and I am trying to keep track of that. I will rotate on each round.

Mr Mammoliti: It is just that the rotation started with us.

The Acting Chair: Fine, but I do not think we need to be that strict. If you would like, we are going to have to set up a different system, but I am trying to do it in the best way I can and being as fair-minded as we can. Mr Daigeler had his hand up first. That means I will go to the next party that has its hand up and go back and forth and rotate it. That is what I am doing. Mr Daigeler.

Mr Daigeler: You just indicated that Ontario is willing to adjust its collection together with the federal tax on the good side. Is that what you were just saying?

Ms Noble: What we were indicating, from the point of view of the collection of tax at the border, is that one of the issues obviously is the exemption levels which are allowed for purposes of the federal tax, the returning residents' exemptions. One of the items the minister went forward to discuss with Mr Jelinek was the possibility of giving consideration to that type of adjustment with respect to the application of the retail sales tax. In other words, we would parallel the exemptions. This would make it easier for customs officers not to have to worry about collecting tax on a full bundle of goods for purposes of the province while only collecting them on those above the exemption levels federally.

Mr Daigeler: So you would exempt what the federal government exempts.

Ms Noble: That is right. Of course, when you are dealing with purchases being brought in, you are dealing with goods. You are not dealing with the services sector, which is part of the GST issue.

Mr Daigeler: From your Ontario Ministry of Revenue perspective, how complicated in fact would it be for the federal government to do this work, simply from an administrative perspective? In other words, how valid is Mr Elinek's—

Hon Ms Wark-Martyn: Administratively, I think it could be—

Mr Daigeler: If possible, I would like to have an answer from the administrators on this, because I consider this strictly a technical question. There is a political and philosophical question, whether you want to harmonize with the GST, but strictly in terms of paper-shuffling and people need it and everything else, is this making a reasonable request of the federal bureaucracy?

Ms Noble: I think what I was attempting to answer previously is that when the minister went to visit with Mr Elinek, it was in recognition that there were certain items, such as the exemption levels, which would be of administrative concern. What the minister went to discuss with Mr Elinek was his department's willingness to have officials examine those issues and come back with options that would allow for that. As outlined by the minister, the position of the federal minister was that in the absence of the province agreeing to a full harmonization of the two tax bases, which would bring in the services sector to the province's retail sales tax, the federal government was not prepared to discuss any option less than that.

Mr Daigeler: And Saskatchewan is doing that?

Ms Noble: Saskatchewan has fully harmonized their tax base.

Mr Daigeler: Is there not another province that is also—

Ms Noble: Quebec and Saskatchewan. In New Brunswick, which I believe is the subject of some—

Mr Daigeler: Right. Are they coming close to an agreement as well?

Ms Noble: No. New Brunswick has accepted the offer of the federal government, the same one that was made to Ontario. In other words, New Brunswick has not harmonized its tax base, but what it is going to be pursuing is the use of information which the federal government has as a result of collecting customs at the border. That information will be shared with the province of New Brunswick. New Brunswick will undertake to directly collect that tax from the individuals after they have returned home.

Mr Daigeler: What is wrong with that for us, then? I guess that would be a question to the minister.

Hon Ms Wark-Martyn: We are looking at the same offer. As I said, we are looking at that exchange of information and seeing how feasible it is and how much revenue we would actually get from that offer. I understand New Brunswick is doing the same thing we are doing now

with the Ministry of Revenue and federal officials, and that is looking into the offer and seeing how feasible it is.

Mr Daigeler: So you are pursuing that at the present time.

Hon Ms Wark-Martyn: Yes, that is correct.

Mr Bisson: There are a couple of interesting things that we have talked about here, and for my own sake and I guess for the people out there watching, I would just like to clarify a couple of things.

One thing is that when we talked about the gas prices, if both the federal and provincial governments were to take all the taxes off gas, my understanding is the gas prices in Canada generally would still be higher than what is found in the United States. Is that correct?

Mr Moxley: That is probably true.

Mr Bisson: Okay. Being that basically we are in a market of 22 million people compared to 250 million, I take it that it is a market thing, it is basically the cost of transportation, production, based on a smaller market than the United States.

Mr Moxley: That is almost certainly one of the components, yes.

Mr Bisson: Does the private sector tend to take any type of responsibility in being able to assist this question of cross-border shopping? The problem I have is that people turn around, and I think rightfully so, and to a certain extent say the government has a role to play in this, and I certainly think that is right. What I am basically getting at is, is the private sector talking about doing anything in order to try to keep the gas prices down itself to a certain extent, to try to have this flow to a certain extent?

Mr Moxley: I am not aware of any discussion on it at the moment.

Mr Bisson: Basically they are leaving it up to us, as governments.

Mr Moxley: I am not aware that they are doing anything but that.

Mr Bisson: Okay. On the question of harmonization of taxes, if we were to harmonize both the provincial sales tax and the GST, basically the scenario would be that we would be applying our provincial sales tax items that are presently not taxed under our system. Is there any idea as far as the impact of what that would mean in regard to maybe even increasing the flow across the border is concerned if we have to pay more taxes on the services we are presently not paying on? Is there any idea on that?

Hon Ms Wark-Martyn: The speculation is that if we harmonize at this point, it would increase the flow, because they would see 15% and they would also be taxed on the services they presently are not taxed on. It would also give them another reason to go across the border.

Mr Bisson: Why would the federal government want us to go in that direction? I have a bit of a hard time trying to understand why they would want us to do that if it is going to add to the problem.

Hon Ms Wark-Martyn: It would also add to the dollars, though, that they would collect as the federal government.

Mr Bisson: All right. Is the GST currently applied to gas sales?

Mr Moxley: Yes.

Mr Bisson: Oh, that is even worse. If we harmonize the provincial sales tax with the goods and services tax, that would mean in fact we would be taxing gas another 7%.

Mr Moxley: Presumably what we would do—and this is just speculative—is drop the rate of Ontario gasoline tax by an equivalent amount. You could make it relatively revenue-neutral. It is essentially what the federal government did when it brought in the GST by dropping the sales tax component and adjusting the excise tax so that it was getting roughly the same amount.

Mr Bisson: But would the danger not be that if the people who manufacture the gas increased their prices on gas, automatically our tax would go up in proportion to that 7%? If gas is being sold right now to the retailer, let's say, at 50 cents a litre and they are reselling, let's say, at 56 cents, and that price goes up to 60 cents, what you would have is that our taxes would go up in proportion every time they increase their gas. Would that not compound the problem?

Mr Moxley: It would, as you say, increase the amount of our tax take when the price increase jumped.

The Acting Chair: Final supplementary. I have three other people on the list.

Mr Bisson: Very good. On the question of harmonization, if I understand it correctly, if you harmonize our tax with the goods and services tax, what we would then be doing is compounding the problem. As well, the question of gas would not be done.

As a final supplementary, in regard to increases in taxes on gas by the federal government in the last eight years or the past Liberal administration, how many times was that increased?

Mr Moxley: Over the last eight years?

Mr Bisson: Yes, federally and what has happened provincially.

Mr Moxley: I really would have to go back and look at the records.

Mr Bisson: More than once, twice, three times?

Mr Moxley: Probably more than three times in both cases.

Mr Bisson: So this is not a new phenomenon in regard to increases in gas taxes, both federally and provincially.

Mr Moxley: No, not a new phenomenon.

Mr Bisson: Thank you.

1040

The Acting Chair: I have three more members on the list. I will start with Mr Turnbull, then Mr Dadamo, and then Mrs O'Neill. We have 15 minutes left, so I am going to stick to the time allocations.

Mr Turnbull: Okay. I will have very brief questions, maybe just yes or no answers.

Minister, have you done an impact study on the effect of harmonization in this province?

Hon Ms Wark-Martyn: Yes, I think we have.

Mr Williams: The Treasurer has done an impact study on it. I believe that as far as the Treasury is concerned, the total revenue would be relatively neutral. But the burden would have been shifted from those paying now to others, mostly the consumer.

Mr Turnbull: Would it not be correct to say, Minister, that your party has always fought on a platform of saying some people were not paying their fair amount of taxes?

Hon Ms Wark-Martyn: Yes. We will continue to say that.

Mr Turnbull: In the interest of time, I am just pushing this along. Originally, when federal sales tax was brought in early in this century, about 80% of our gross national product was attributable to the manufacturing sector. It is now about a third of our GNP. In other words, there has been a progressive movement of tax burden just to industry and less has escaped the taxation. Surely, would that not be consistent with your stated goal of moving towards fairness, that taxes would be equally distributed across the manufacturing and service sector, in view of the reduction of the proportionate size of the manufacturing sector?

Hon Ms Wark-Martyn: In fairness, I have a couple of points to make. I think, for one thing, you should be talking to the Treasurer, who I understand is also coming in this morning to meet with this committee here. I also have to leave by 10:50, because I do have another meeting to get to and I was scheduled to be here until 10:45.

The Acting Chair: Could I just say I did not know that was the case and I apologize for telling members that we still had another 10 minutes. I am going to cut this short, Mr Turnbull.

Mr Turnbull: In that case, can we just simply have the Treasury table to this committee the impact study or harmonization?

The Acting Chair: We can ask the Treasurer when he arrives. I am going to go to the next two questioners, Mr Dadamo and then Mrs O'Neill. That question you can place, Mr Turnbull, when the Treasurer arrives. We do have only six minutes left.

Mr Dadamo: I will not take very long.

As the minister knows, the riding I represent is Windsor-Sandwich—the Ambassador Bridge is there, the tunnel is there also—so I live with the cross-border shopping quite a bit. One question I wanted to talk about and home in on, of the many I would like to ask, is whether you could sort of talk about the express lanes and how that would be set up. Would it be slowing traffic? We are allowing the Americans to come in quicker; is that what the scheme would be?

Hon Ms Wark-Martyn: The express lanes are to put people through faster, anybody who is going across the border. There has to be a permit that they have to purchase annually to go through and they fill out a form. Presently, it is for anybody who wants to use that lane.

Mr Dadamo: We are also limited to the amount of lanes we have already on the Ambassador Bridge. It is not

like you can build more lanes up there. So I am wondering, does it impede traffic? Is it slowing traffic down at all? How much quicker will it be?

Mr Williams: As I understand it, the point you have brought up is the very issue, and that is that physically they cannot put any more lanes in. All it will mean is that once you reach the point at the bridge or the tunnel where it fans out, you would be able to go to a lane and go through faster than simply stopping at the customs officer and having him question you.

Mr Dadamo: But the truckers already do that now.

Mr Williams: That is correct.

Mr Dadamo: The left lane is, I guess, an express lane.

Mr Williams: That is correct.

Mr Dadamo: It gets them in and out quicker.

Mr Williams: This would only work for non-truckers. Non-truckers would now join the same lane as, say, truckers would, or they would have another lane assigned to them which would mean fewer lanes, then, for those who are declaring and who have not been a part of the so-called Peace Arch Crossing Entry project.

Mr Dadamo: Okay, very well.

Mrs Y. O'Neill: Madam Minister, and perhaps your deputy, I would like to know as we sum up these discussions what things you are working on within your ministry, what directions you have given to your deputy, what kinds of studies you are engaged in. I would just like a summary of that now as we are finishing.

Hon Ms Wark-Martyn: We are still working with the federal government in the exchange of information and what that will involve. My staff is still looking into that with them.

Mrs Y. O'Neill: That is the exemption lists, correct? Harmonizing the exemptions?

Hon Ms Wark-Martyn: No, that is the exchange of information.

Mrs Y. O'Neill: I know. I would like to know what kind of information, then. I thought it was exemptions.

Hon Ms Wark-Martyn: No.

Ms Noble: We had mentioned earlier the two provinces that have fully harmonized where the feds are prepared to collect at the border.

Mrs Y. O'Neill: Right.

Ms Noble: What the province of Ontario is pursuing at the level with officials at the moment is the option whereby they would give us information that they have on the slips of paper that people use for declaration purposes. They would give us information in terms of who has come back and brought back purchases upon which customs and duties and GST were paid. The province would then have to take that information and we would have to get in touch with those individuals directly from the province and assess them, essentially, the sales tax which they owe under the law.

That is the option that is being pursued and examined at the moment. It is really to see whether or not it makes sense from the point of view of the province of Ontario to participate, as the province of New Brunswick indicates it

is prepared to examine. What we are looking at is the alternative that has been given to us by the federal government, given that it is not prepared to discuss any options around its actually collecting it at the border.

Mrs Y. O'Neill: Thank you for helping me with that. Is there anything else, Madam Minister?

Hon Ms Wark-Martyn: The other thing we are working on is tourist rebates to help out the tourists who come across the border crossings from across the country and other places. Those are the two specific things.

Mrs Y. O'Neill: Could you say a little bit about what you are doing in that area?

Hon Ms Wark-Martyn: We are looking at working with the federal government to give back the rebates that tourists are sending in. Right now they send them in to us and then we send back the slips and then they have to send them back to the federal government for a rebate. We are looking at working out a system so that the tourist only has to send it to one level of government. We will rebate the whole thing and then work with the other level of government for the rebate.

Mrs Y. O'Neill: I hope that process can be simplified, because the tourism industry really does need that boost.

Hon Ms Wark-Martyn: That is correct, yes.

Mrs Y. O'Neill: Is there a moment for Mr Offer to offer one question?

The Acting Chair: No, I do not think so. We are going to cut it off at that point and move on to our next presentation, since we have run out of time.

MINISTRY OF LABOUR

The Acting Chair: Moving right along, I am going to call on our next set of presenters, the Minister of Labour, the Honourable Bob Mackenzie, and his deputy minister, George Thomson. Would you come forward please?

Mrs Y. O'Neill: May I thank the members from the Ministry of Revenue for coming here and being co-operative in their answers.

The Acting Chair: Sure. Thank you.

Welcome to the committee, gentlemen. I am sure we will have an interesting half hour.

Hon Mr Mackenzie: There are always new firsts.

The Acting Chair: As I try to point out, we will divide the time equally. You have half an hour, so if you would allow some time for questions.

Hon Mr Mackenzie: I have very few comments. I certainly share your concerns and those of my colleagues here today about the effect cross-border shopping has on our communities and our provincial economy. There has been a substantial decline in retail employment this year in Ontario. In the first quarter of 1991, employment in the industry averaged 55,000, or 10% less than the same quarter of 1990.

There have been a number of reasons for this decline. A simple important reason is the recession, which has meant that consumers have less money to spend. It is important to recognize that this recession has been caused to a considerable degree by federal policies, particularly the

high interest rate policy of the Bank of Canada. Cross-border shopping has certainly been a contributing factor to the general decline in retail business, but again, many of the key factors do not necessarily deal with this government.

The introduction of the GST in January 1991 has led to price increases across Canada, considerably more money being paid than was at first thought. The increase in the value of the Canadian dollar compared with the US dollar over the last several years has raised Canadian prices relative to prices in the neighbouring states. These factors are the principal causes of the problem of cross-border shopping. Similarly, while Ontario wishes to help find a solution to this problem, the federal government simply has to play a key role in any solution that is arrived at.

The issue of cross-border shopping gains special attention because Ontario's border communities are the same communities suffering the most serious depression due to the economic downturn. Cross-border shopping, plus additional constraints on economic recovery, puts additional constraints on economic recovery in the border communities.

I think the best thing from there would be to go into the questions.

1050

Mr Offer: Before we go forward, as a matter of procedure, and I apologize for this, do we divide up the time?

The Acting Chair: As a matter of policy, as I stated earlier, we are going to divide the time equally among the three parties. We will be rotating back and forth.

Mr Offer: Thanks to the minister for his presentation. You started out by indicating some percentage of job loss. Is that across the province or is that specific to the border communities? If not, could you please indicate the employment figures in the major border communities?

Hon Mr Mackenzie: I do not have the employment figures in the major border communities. The figure I gave you is, across the province, the decline in retail employment—a number of employees in the retail trade, rather.

Mr Thomson: If I might add to that, MITT and Treasury have been doing this study and much of our information has come from them and I know you will be talking with them, but they have attempted to try to look at that decline and calculate what extent of it is related to shopping loss in the border communities.

Between 1988 and 1991, the figures we have been given indicate that, if you look at that overall loss, 14,000 of that total figure could be loss related to the retail sector and border communities, but it is a very rough estimate, as I understand it, based upon the best calculations they can do.

Hon Mr Mackenzie: I point out that these are not our figures. I am not disputing them, it is just they have been collecting the information on this. We have not been involved in the figures on the cross-border shopping.

Mr Offer: As it is an issue of such great importance, especially to those border communities, I hope the Ministry of Labour would have at least attempted through, if not the ministry, a variety of other avenues of opportunity, to obtain the type of devastation the border communities are experiencing in terms of employment. I have had an opportunity

of going to a number of these areas and I can assure you that the percentages you have provided are a bit on the low side in comparison with the reality of what is going on.

However, one of the things brought forward are the initiatives that labour is attempting to do in terms of addressing some of the job loss in the border communities. I am wondering if you might want to share with us some of what your ministry has attempted to accomplish in order to fight this job loss in the border communities.

Hon Mr Mackenzie: First, I should make it clear that we have not tried to carve out the border communities piece in terms of specific programs. We have a devastation in a number of communities in terms of plant closures and unemployment problems. Our approach has been, one, to get the protective legislation in place; two, to get the training programs beefed up and in place to handle the additional workers who need the support. In terms of actual figures, we have not felt it was useful in having a third ministry do actual collection.

Mr Offer: In response to your answer, that is one of the concerns being voiced by the border communities. They suggest that the type of difficulties they are experiencing warrant some specific action by the government, the Ministry of Labour in particular. In this time of recession, they are looking for some specific action. It appears from your responses that you have just put them in the same pot as everyone else. I suggest the ministry should look at the unique difficulties being experienced by border communities and listen to some of the issues they are bringing forward and some of the solutions they say are necessary.

My third question is—

Hon Mr Mackenzie: Fine, go ahead, but there was a response that should be given, Mr Chairman.

Mr Offer: My third question is whether you see the Sunday shopping issue as one which is in some way related to the cross-border issue. The Solicitor General has, in fairness, indicated they are totally separate and distinct issues. I am wondering whether you as the Minister of Labour agree with your Solicitor General that they are totally distinct, or that there is some impact by Sunday shopping on cross-border shopping.

Hon Mr Mackenzie: I cannot tell you the extent of the impact Sunday shopping has on cross-border shopping. I do not think anything operates totally independently, but they are certainly two separate issues. The way we are taking a look at them is on a separation basis as well. With respect to your earlier question, I can tell you that our ministry has not ignored part of it. There is an inter-ministerial group going on specifically charged with looking at the issue of cross-border shopping. Certainly, we will be part of that assessment of the situation. The only point I was making earlier is that we saw little reason to have two or three separate ministries collecting figures on this particular issue.

Mr Thomson: I would like to briefly add to that. The labour adjustment program that we have developed and was announced a few months ago that involves the establishment of the office of labour adjustment, substantially added resources to assist businesses going through layoffs

and closures. While it is focused on the province as a whole, we have put a fair amount of emphasis on developing programs in communities close to the border. Windsor is a good example and one of the things we have done with the added resources we were given is to put extra money in the local help centre to work with smaller closures, with employees in smaller enterprises facing layoffs because the normal program focuses upon larger closures of 50 plus.

Many of the retail establishments that are affected are smaller operations to begin with, so we have been trying to develop special measures to assist employees in those operations. The labour adjustment program, and I could go into it in more detail, does in fact provide a fair amount of assistance to those communities.

We looked at the issue of the extent to which Sunday shopping is relevant to the cross-border shopping issue. Once again, the other two ministries have been carrying lead responsibility for that. We have not been able to find substantial evidence showing that, during the period of time there has been more open Sunday shopping, this has had a major impact on the growth or lack of growth of cross-border shopping in other provinces or here. But the evidence on that is pretty limited at this point.

Mr Offer: You have brought forward two points I want to explore now. The first, dealing with the labour adjustment measures, is one which I guess all members recognize the impact of. However, the issue in the cross-border communities is not so much the labour adjustment matters but rather one step removed, stating we want to have to go through those later. We want to continue to exist and we want to continue to expand. We recognize that for certain companies, labour adjustment certainly is one which we will all agree in direction, but the cross-border communities do not want to have to undertake those because they do not want to necessarily close, and they are having to close.

My second point—

The Acting Chair: And your final supplementary.

Mr Offer: And my final supplementary, Mr Chair. Time flies. I am trying to get the picture because when I travel to the border communities, they see a connection between cross-border shopping and Sunday shopping. The Solicitor General has indicated that there are two distinct issues; one has no impact on the other. In your response, deputy minister, I believe you have somewhat moved in that area, that they are two issues. We know they are two issues, but we are talking about the impact one has on the other. You are saying that according to the Ministry of Labour you see no real impact of one issue on the other, and I say this by rhetorical question because I dare say there are many hundreds of thousands of people who live in those communities who would severely disagree with you.

1100

Hon Mr Mackenzie: A very quick response to your comments. First, in terms of labour adjustment, just because they do not want to have to go into the adjustment programs where there is an increase in unemployment, whether retail workers or whoever they might be, then we have to do the best we can within our mandate to set up

labour adjustment and retraining programs, and that we try to do.

The answers that might stop it, or the answers to the issue of cross-border shopping, probably lie a little bit more in the economic planning area and what we can do about it. That has not been the lead of our ministry, it has been the Ministry of Industry, Trade and Technology and the Treasury that have had that responsibility. We have no hard evidence—although we have not been the main collectors of information—that Sunday shopping has had any appreciable effect on the employment issue, but I also would say very clearly, and I do not think it is disputing my colleague's position, that I do not think there is any single issue that stands totally alone. What we are saying is that we have no hard evidence that Sunday shopping itself is a major part of the cross-border shopping problem.

The Acting Chair: On that note, I must move on to Mr Bisson, and then I have Mr Turnbull next on the list.

Mr Bisson: To start on a lighter note, it is nice to be in a position to ask questions in the committee. I remember being in a situation at a committee meeting when I was making presentations to the very committee on which the now Minister of Labour sat. So it certainly is a nice feeling.

Just a couple of things. I guess I have to start—

Mr Offer: Time is up.

Hon Mr Mackenzie: I am glad you were a friend at that time.

Mr Bisson: I have a series of questions, but before I ask the questions I just want to make a statement, because it will make a little bit more sense that way. One of the problems we find with cross-border shopping is that what you said is perfectly right, it is not any one particular thing that causes a problem with cross-border shopping. To say it is just taxes, Sunday shopping, prices, just this or just that is a very broad statement. It is a number of things and I think we all recognize that.

We had no Sunday shopping in this province for over 110 years where the problem with cross-border shopping was not the big issue. What I am getting to is that it seems to me part of the problem is that there have been a number of contributing factors that have made it not only financially attractive for people to go shop the other side of the border, but also socially acceptable. It started originally, I imagine, with very small price differences from one side of the border to the other, until finally it became the trendy thing. I can go to the United States and I tell my neighbour I can get something for two cents cheaper, and my next friend said it was four cents, etc, and a lot of that is blown out of proportion.

In the end we, as Canadians, are shrinking our own market. If I live in Windsor, Sarnia, Kingston or wherever, because we start going in more and more numbers, we decrease the local market on our side of the border so the retailers do not have the volume of sales to sustain their own businesses. In a sense consumers are adding greatly to the whole problem around cross-border shopping because not only are we decreasing our own local markets—the effect being that retailers have to increase their prices to stay in business because they sell less volume—we are

also contributing to the joblessness in this province. By not buying goods within our own province, we are not only putting people out of work in the retail sector, but those who have manufactured goods for the Canadian market do not have as big a share of the market either. Eventually we are wiping ourselves into oblivion by doing that.

Speaking about that, I have a couple of questions. It has always been the thing in Canada, it is almost a pastime, that any time we have a problem in this nation we turn to our governments. Governments have to take the responsibility. I do not want to say otherwise, but as a Minister of Labour, in discussions you have had with the trade union sector and also the private sector, what is being done by the private sector itself in order to possibly do something to try to curve the mindset around cross-border shopping? Are they planning any education? Are they doing anything in concrete terms in the private sector to try to assist themselves, in co-operation with their government?

Hon Mr Mackenzie: I cannot speak for private business. Because they are hurt by the effects of cross-border shopping, particularly in the border communities, I suspect it is probably increasing the level of awareness of the need for the most competitive prices they can come up with, and that is sometimes difficult. I would be surprised if that is not a reaction of the business community. There is probably more of a feeling that an education campaign may be part of what is necessary, from the trade union movement side, but I also have no doubt in my mind that they want to see a more specific plan that has been planned by the government.

I do not know what this committee is going to be able to come up with itself. My own personal view, and I guess I am entitled to that, is that we are paying a heck of a price for the free trade agreement. I think it led to some of the belief that the border was just absolutely open. You could do what you want, go across, and it was not going to give you a problem.

I think it has led to one other problem that I hope the committee will look at. I personally do not know how widespread it is. I was sitting down with a small businessman in London who has been a friend of mine for years who was down here only because his wife had to have a rather serious operation that was taking place in Hamilton. He runs a fairly extensive auto parts business in the London area. He was telling me his next-door neighbour, who simply got a price for some renovations he was doing on his home, needed 24 sheets of a special panelling. The price for that panelling was in the \$20 range in London. He was told by a friend that he could get it for \$11 in Detroit. He took his own pickup, went down to Detroit, picked up the 24 panels at \$11, brought with him the statement, because he expected to pay some differences on it, and was just waved through at the border.

I do not know how we deal with situations like that, but it seems to me that it is not only the perception of people that they can cross the border freely and shop, and that probably means some real education or a little bit more Canadianization of our own people and what it is doing to us. But it seems to me that we appear to have gotten rather loose in terms of enforcement of any payments or

differences that should be paid as it stands now as well and that is probably part of the mindset once the border communities and the border seem to open up with the cross-border shopping.

Mr Thomson: I would just to add two quick things. There is some evidence, clearly, of companies adopting different pricing strategies closer to the border to help their outlets be competitive. The point you make about whether people understand the real costs of going across the border to shop is a very valid one. My understanding is that there are some municipalities in particular that are trying to explore better ways to bring the true cost of cross-border shopping home to people, both the cost of the exercise itself—getting there and other costs that people often do not factor in—but as you say, the indirect costs that come from reduced revenues, which affect the quality, amount and cost of services here in this province when there is not the revenue coming from retail operations in this province that help to pay for those services. I know there is some thought being given to those kinds of educational efforts, and I think there is a real need for them.

Mr Bisson: My great difficulty with this issue, as with many others, is that often in our society we tend to look for quick fixes. We say we can fix this if we can get the federal government or the provincial government to do whatever, and I am sure those fixes are partial solutions. But on this issue especially, there needs to be a very large education campaign on the part of municipalities, retailers, labour, business and the governments in general to be able to get people to understand what this real issue is about and that if we, the shoppers, cross the border and shop in great numbers, we decrease our home market. If we decrease our home market, in turn, we are not only kicking people out of the retail sector, but our manufacturing sector will also shrink. We will lose because we are unable to sell.

I have a real difficulty with people who come to me, as a government member or even as a member of this Legislature, to say it is because retail sales tax is not collected or because of whatever. Sure, that is part of it, but that is not going to solve the problem. I think people have to be very clear. There are hidden costs that are far greater on this issue than what the actual costs are when we go and save \$2 on something bought on the other side.

1110

Hon Mr Mackenzie: I suspect the biggest problem this committee is going to have, and once again it is only my own perception, is the fact that while there may need to be some real education in terms of just exactly what this is doing to us, as we have indicated, those kinds of programs take a long time. We saw that in the whole battle in this province on health and safety and the rest of it, over how many years. It is difficult to win the battle in terms of education. People look for quick fixes, and if you come up with a quick fix, it is going to have to be pretty simple or you are probably going to have some problems with it.

Mr Turnbull: Most of the things Mr Bisson said I agree with completely. That does not often happen.

There is no doubt that it is a complex problem. There is no one single fix to it. An education program needs to be

mounted, because to a great extent the savings are overblown. There are certain items which there are significant savings on. Some of that we could address and others are probably impossible to address.

I was struck by the minister's opening remarks. You said the three items which in your mind contributed to these problems were the high interest rate policy of the federal government, GST and the increase in value of the Canadian dollar. Then later on you went on to blame free trade to some extent.

I would just like some very quick answers on things. Would you not agree that some very prominent economists have suggested that the deficit budget your government has brought in exacerbates the problems of the federal government and the Bank of Canada in bringing interest rates down? You cannot untangle one from the other. When you are drawing that amount of money in to support a debt, you have to have a certain interest rate which supports it. To the extent that in Canada we now do not have as high a per capita savings rate as we traditionally used to have, to the extent that we borrow overseas to make up for government debts at any level, surely there is a pressure first of all on interest rates, which in turn has a circular effect of forcing up the value of the Canadian dollar.

Hon Mr Mackenzie: I think there are a couple of responses to the question you have asked. You and I may or may not agree on them, but in terms of my concern about free trade, the high dollar, interest rates and the GST, these helped to fuel or produced, with the downturn, the recession we have had in the province, and that means people with less money to spend and more likelihood to be tempted if they think there is a real saving in crossing over at a border community.

In terms of the budget we have brought down, I guess the quickest answer to the question you asked is that in my own mind most of the things I outlined are federal responsibilities, as I said very clearly. The debt we are paying off in Ontario, as I think you probably know, is 11 cents on the dollar. The debt they are paying off federally is 30-some cents on the dollar. That makes a heck of a difference in terms of where the pressure is coming from on the economy.

Mr Turnbull: Let's be realistic. That federal debt did not appear overnight. It did not just sort of suddenly go poof and one day it was there. When the federal Tories took over—and I am not supporting them; I am just saying they took over a huge debt—instead of being paid down during good times—I am not bashing your government for running some deficit during a recession. I totally disagree with the extent of your deficit, but I am saying that it seems reasonable, if you subscribe to Keynesian economics, and I do not happen to, you are going to run some debt.

In fairness to John Maynard Keynes, he advocated at least paying off that debt in the good years, and you have taken over the problems from the Liberals. Successive governments did not pay it down. I am going back to when the Tories were in power and they did the same thing. We have every government at every level blaming the other and we have to stop this if we are going to move forward in this country.

The comments that are made about free trade are rather silly when you consider that last year, for the very first time in history, Ontario actually ran a positive surplus vis-à-vis trade with the US. In other words, we exported more to the US than we imported in dollars from the US for the first time. That is since free trade, so this argument about free trade is absolutely flawed.

Hon Mr Mackenzie: One of the privileges, and it is not always a pleasure, if you can call it that, but one of the interesting things in sitting down with the business community in the Ministry of Labour—and you sit down with the community quite often, let me tell you, because it has an immediate concern over issues we may be taking a look at—

Mr Turnbull: They are not very happy with you at the moment, are they?

Mr Bisson: They are not very happy with the federal government right now.

Mr Turnbull: Excuse me. Mr Chairman, if we are going to have heckling in here, please give a ruling and I will join in the heckling. But if you do not rule that they keep their statements to themselves until they have time, I will not participate.

The Acting Chair: I would ask all members to be as cordial and as parliamentary as possible.

Mr Bisson: I apologize.

The Acting Chair: Mr Mammoliti on a point of order.

Mr Mammoliti: On that note, I would ask that Mr Turnbull not interrupt the minister in the middle of his response to one of his questions, then.

The Acting Chair: I think we will proceed and we will try to act in as parliamentary a fashion as we can. Please proceed, Mr Minister.

Hon Mr Mackenzie: What I was going to say to my colleague Mr Turnbull is that one of the things that struck me with some strength at a recent meeting with the key people in the auto parts industry, Woodbridge Group and a number of others, one of the comments made by all of them at that session in my boardroom when we discussed the effect of free trade, among other things, as well as the effect, as they saw it, of any labour legislative changes we might make in the province of Ontario, was that had they realized that both the interest rate and the Canadian dollar were going to stay as high as they were, they might have taken a different position on the free trade argument. I found it a little bit difficult to accept, simply because we had made those points in the course of the hearings on free trade.

The final point I will make in terms of our budget is that there is about \$1.6 billion or \$1.7 billion in new money in that budget. Most of it is statutory requirements in the social services field, the welfare field or the lack of transfer payments that have come through. There is no question that there has been an effect on that budget in this province.

Mr Turnbull: They could have easily cut back government expenditures.

Mr Abel: We would like hear the answer.

The Acting Chair: It is Mr Turnbull's time and I am going to allow him his time. There is give and take on this, so if you would proceed.

Mr Turnbull: I want to point out to the members across there that we have heard ministers or other people interrupting at times and saying—this minister, in fact, indicated—

The Acting Chair: Mr Turnbull, I will rule on what is acceptable and what is not.

Mr Turnbull: Thank you. Good.

Minister, will you confirm to me that last year for the first time in history Ontario had a positive surplus in trade with the United States?

Hon Mr Mackenzie: I am not sure whether that is a fact. I do not dispute it if you say it; I just do not know offhand.

Mr Thomson: I am in the same position as my minister, Mr Turnbull.

Mr Turnbull: It is a fact that we had a positive trade balance for the first year after we had free trade.

Hon Mr Mackenzie: I am not sure what point that really makes, though.

Mr Turnbull: Please check it out. I mean, you cannot bash free trade and suddenly say that we have a positive balance. The problems we are having now are complex, as you have indicated, and they involve interest rate policy and the value of the Canadian dollar and also taxes. Surely we have to look at them in unison. Your government is driving interest rates higher simply because of the pressures of borrowing, and leading economists are saying this.

Hon Mr Mackenzie: Once again, how do you explain the 11 cents compared to 34 cents on the dollar in carrying debt? It seems to me we have done a relatively good job.

Mr Turnbull: As I was about to say before, the difference in borrowing is that it does not occur overnight, to the extent that governments have not paid off in good years the amount of money they have. In my estimation, the federal government made the fatal mistake of not cutting back on government services tremendously and paying down the debt. But it was the debt they inherited from the Liberals when they took over, because they have been running a balanced budget, revenues relative to expenditures. The increase in the federal debt has occurred because of servicing the debt, and I am cautioning you, Minister, that your government should not make the same mistake in building up the debt, because if it is 11 cents now, then simple mathematics would say that if you double the debt as you are proposing, then it is going to be 22 cents. If you are saying it is wrong for the federal government, why would you imitate what they have inherited?

1120

Hon Mr Mackenzie: Once again, I think some of your questions are probably more properly directed to the Treasurer, but as a member of the team, I can simply tell you that it is not our intent not to deal with the deficit. We were dealing this year in the budget with a specific problem. As the Treasurer has made it very clear, were we fighting the deficit or were we fighting the recession? Without

some of the things we did, as you know, we would have had another 70,000 or 80,000 people out of work in this province.

The Acting Chair: I am sorry, I am going to have to cut it off at this point. We have run out of time, gentlemen. Thank you for appearing and thank you for keeping to the tight time limits and co-operating with me.

We will move on to our next set of presenters. Mr Mammoliti wanted a question, but we ran out of time. We will get to the next set of presenters and back to you for questioning.

MINISTRY OF INDUSTRY, TRADE AND TECHNOLOGY

The Acting Chair: Can I call on the Honourable Allan Pilkey, the Minister of Industry, Trade and Technology; Tim Armstrong, his deputy minister; Peter Friedman, director of small business at the ministry and anyone else they would like to introduce who is also present. Please come forward, gentlemen. We do have to keep to a tight time schedule here. Welcome to the committee meeting, and I would ask that you allow some time for members to ask questions after your presentation. We have approximately 45 minutes. Please proceed.

Hon Mr Pilkey: Thank you very much, Mr Chairman. I am joined today by Tim Armstrong on my immediate left, who is the Deputy Minister of Industry, Trade and Technology; on my right, Peter Friedman, director of small business for the same ministry. Peter is also chair of an interministerial task force we have commissioned to study and to bring forward recommendations with respect to the cross-border shopping issue.

Mr Chairman, cross-border shopping has become a problem for Ontario as a result of circumstances mainly under federal control, but there is required to be a response from all levels of government, hopefully working co-operatively to find a solution to this difficulty.

We have a rather complex problem, with a variety of interest groups. There does not seem to be any single solution to this problem. Perhaps one of the greatest difficulties is that this exodus seems to be based on consumer choice, based on either the real or perceived benefits they might achieve across the border.

I could continue at this point, but I wish to offer one possible suggestion, if the committee feels it would be helpful. As I indicated in the introduction, Mr Friedman has chaired the interministerial group. He does have about three to five minutes of comments to update you on the workings of that committee and some of the findings and issues. If it would be helpful prior to my continuance and offering myself for questions to the committee, would the committee find it helpful to hear the findings of that particular group for that brief time?

The Acting Chair: By all means, if that is the way in which you wish to proceed, please feel free to do so.

Hon Mr Pilkey: Thank you. As I said, Peter Friedman is the chairman of the committee and he will take you through a very brief overview. I think it will be very helpful to the committee.

Mr Friedman: As an opening, I just want to mention that the committee has met with a number of groups on this issue. The federal government also has an interdepartment committee on this issue, and we met with them. We met with the mayors' committee, which is chaired by the mayor of Windsor, Mayor Millson. We met with all the labour unions, or most of the labour unions led by the Ontario Federation of Labour and the Canadian Labour Congress. We met and have been working with a number of border community task force groups made up of business people and everyone in the eight border communities affected by this issue. Also, we attended and talked with the retail council and a number of other business trade associations in the period we have had the committee working.

As the minister started saying, this is a highly complex problem with various interest groups coming at it from different directions. We believe no one solution will in fact have a significant effect.

Consumers are basing their purchases on either real or perceived differences in prices, which I will talk about in a minute. One important element you should be aware of is that there are important differences in our wholesale and retail sector between Canada and the United States, which a preliminary study by Ernst and Young indicated are causing some significant differences in pricing and significant differences in modes of operation.

The border communities are taking the brunt of this problem at the moment, and the problem is growing extremely rapidly. In this quarter, the volume of shoppers has gone up 22%. Another unfortunate situation is that, in effect, most of Ontario is a border community, 80% of our citizens live within two hours of some border of the United States, so we are in a very precarious position as far as this particular issue is concerned.

The closing of businesses in the various border communities is causing, I think, quite serious hardship in those communities above and beyond the economics. I think it is causing some of the communities to have an effect on their structures and in their situation, because many of the people who are closing were also the people who were involved in the funding of junior baseball leagues and many other of these situations. So it is having detrimental effects on those communities.

It is also threatening the consumers' contribution to the economic recovery, which we hope will be coming soon, because of the significant downplay.

The border communities are looking to the provincial government for leadership, and they certainly need all the border officials. And the retailers in the community are looking for some assistance and leadership from anywhere they can get it to come out of this particular problem, which is hurting them terribly.

The next page I will very quickly summarize. The situation last year was that there were 20 million same-day shoppers returning, a 20% increase from the year before, which was a 20% increase from the year before that. With that sort of volume coming across our eight or nine border points, the basic excise system is being totally clogged up.

We did some research on all the border communities and it indicated an approximately \$1-billion loss in retail

sales projected for 1991. We broke those out in the various border communities, and they break out something like that. In addition, we did research in four of what one would consider non-border communities, such as Hamilton, London, Ottawa and Kitchener-Waterloo. Based on that research, we found there would be an additional \$1.2 billion of retail sales lost within the two-hour drive element.

These estimates are based on goods only. Services would add to that.

There are a number of causes to this. The one you hear most about is the lower prices, some of which are real and some of which are perceived, most of which is being promoted by the media, our media and the American advertisers.

In discussions with consumers, there definitely seems to be some tie-in with the concept of the free trade agreement and the feeling that the border in fact has now disappeared and they can go more freely back and forth.

The GST is another thing they certainly talk about. They use the slogan in the Buffalo area of, "Go Shop Tops" which, as many of you know, is a department store in the Buffalo area.

1130

The administration of customs and excise has become a serious problem mainly because of the volume. The people there have mostly become traffic officers trying to move the people through the system because of the huge lineups at certain times at the border points, with very little time or effort to deal with the concept of duties and tax collection.

The Americans have woken up to the opportunities. They now have large shopping malls across every border point. They are also advertising heavily in Ontario and are doing a lot of their marketing based on the Canadian consumer.

I believe consumer attitudes have changed. What we have heard is that there seems to have been an unwritten kind of an agreement between the people and Canada, that they were prepared to pay slightly higher prices for goods because of the social and health networks that we have in Canada. That seems to be disappearing now. They are taking advantage of those opportunities, going to spend their bucks across the border.

Taxation and regulation by all levels of government is certainly one of the causes that appears to come forward.

That is a quick summary of what our task force has found.

Hon Mr Pilkey: I hope that in some way capsulizes and sets out many of the difficulties, real and perceived, that surround this issue. Perhaps we might proceed to a question and answer period if that would be helpful, or if there are any elaborations on any of those circumstances we would be pleased to respond to those.

Mr Mammoliti: My question revolves around what we can do as a team. This morning all we have heard is what we can do here in Canada, what we can do here in Ontario, what we can do together with the federal government. I am curious about what we can do as a team to try to influence the United States against hurting us. What I mean, and you touched on it in your report somewhat, is that they are doing a lot: They are setting up malls and

they are advertising and attracting Canadians, and they are advertising around Canadian wants and Canadian needs.

To be more specific and just to give you an example, when we were in Windsor, I was talking with some of the residents in Windsor and they were saying there are bars and stores across the border that accept our money at face value. That attracts Canadians cross-border.

What can we do as a team—I am talking about the federal government as well as municipal and the rest of the residents in Ontario, and Canada, for that matter—to create some sort of strategy? Is there a strategy we can come up with, away from the free trade agreement now? Is there anything we can do to try to stop the Americans from doing the damage they are doing?

Hon Mr Pilkey: To be objective, I really do not know what you could say to an American business person who is simply trying to market his product line. I think they are going to do what businessmen do, and I am not sure how one might approach that. I think you really would be left with: How could you promote your own side of the border? Are there incentives? Are there promotional programs that merchants in those border communities can offer to entice their customers to stay at home or, for that matter, to entice US citizens to come over to our side of the border?

We have met and have been meeting, I believe for a considerable length of time, with those border communities and have assisted in some framework studies that would assist them in that particular direction. Of course, we will be meeting in a joint fashion with the federal government and the mayors' committee within the next week or two to see whether these various stakeholders can bring to the table any particular suggestions or solutions to the problem.

Mr Mammoliti: So the provincial government is quite prepared to sit down with the federal government and think of ways of combating this particular problem?

Hon Mr Pilkey: Absolutely. One of my cabinet colleagues, Shelley Wark-Martyn, recently met, I believe, with Mr Jelinek with respect to the issue of collection of provincial sales tax, which would take away some of the advantage of cross-border shopping. My discussions with her have indicated that she was not particularly well received and the suggestion that the federal government might assist us in this way did not meet with a great deal of favour. Regrettably, I am not convinced that there will be a united focus with respect to the federal and provincial governments, notwithstanding our desire to do so.

Mr Kwinter: I have a question and I do not particularly care who answers it. I am sure you know that we have another committee that is addressing the cross-border shopping issue, and I just came from that committee. We have been meeting for some time.

In your causes, you list the free trade agreement. I am sure you know that prior to the free trade agreement, 80% of all of the trade in goods and services between Canada and the US was duty-free. For the remaining 20% that was in place, the average tariff was between 7% and 10%. That was the average. Those tariffs are coming down over a period of 10 years. Some have come down immediately,

some are coming down over five, and some are coming down over 10.

What I would like to ask any one of you is, can you identify one consumer item that has been affected by free trade?

Interjection.

Hon Mr Pilkey: We will press for both, though. Go ahead. We will give him all kinds of information.

Mr Friedman: I think the important part, and what I was trying to say, is that much of this phenomenon is a mindset of people. It is not really based solely on the price difference. I think people are doing this in some way—the notion that the free trade agreement gave people in the consumer world is that in fact there would be a difference. Whether there was an actual difference or not I do not believe really matters to these people. I think that it is the concept, and in fact the border is disappearing. In many ways they have caused the border to disappear by the numbers that are going over.

When you have 20 million people going back and forth, it is like a mob with the police. You cannot in fact be diligent in the customs and excise function. By their actions they have caused the border in essence to disappear.

The federal government tells us that they have to get people through that thing in 45 seconds. That is what they are doing it in now. Their aim is to get it down to 15 seconds just to keep the system moving. In that mode, duties and taxes become kind of irrelevant, because they can only deal with 5% of the people in terms of collecting.

Hon Mr Pilkey: I believe the question is well put and technically correct, but if I can just add to that, I think it is really a question, Monte, of perception, and almost a feeling now that it is okay to go over that border and shop. I think with the free trade agreement, by the very nature of the words "free trade," the border now becomes irrelevant, invisible, and I think that kind of sanctioning, if you will, has started to set in.

In addition to the sanctioning that people now feel, I think there is also a feeling of bitterness and resentment by many consumers—and it certainly was expressed in media interviews—from many people with respect to the GST. I do not mean to be partisan in this comment either, but I think a lot of people finally just said—

1140

Interjections.

Hon Mr Pilkey: No, I am not trying to be. Seriously, I am not trying to be. But I think they finally used that, as well as their frustration, to say: "The heck with it. It is cheaper over there. I am going. I am upset with our own national government's tax policies." It is another straw, I think, coupled with the first point I made, the sort of low enforcement—and I am sorry to be repetitive of Peter's comments. I can recall, many years ago that some Ontarians, when they crossed that border, could not remember how much you could bring back after 24 hours and how much after 48. You had to be there seven days, I believe it was, before you could bring back \$300. There was enforcement and it was a concern of people.

I think because of the lack of enforcement, or the low enforcement, and because of the FTA and the GST, people now feel quite at ease at making that sojourn over there to reap what they perceive to be an immediate cash benefit in their hand or in their front pocket. So while I do not disagree with the member in terms of his technical explanation—I am sure it is quite accurate—I think it is these attitudinal problems that we fight.

Mr Kwinter: The reason I raised the point was because, again in our other committee—and this committee is going to have to do the same thing—we are looking for solutions, and you cannot get the solution until you know what the problem is. If you are going to just stand up and say, “Well, there’s an attitudinal problem,” that may be what we have to address. But I think you do everybody a disservice when you stand up and say that because of free trade—and God knows, when free trade came, I was our government’s spokesman against free trade. I thought it was a terrible deal.

But having said all that, what I am saying is that when you say it is the free trade agreement, it gives the impression that because of free trade, there is a competitive advantage. I am saying to you that I have not found one single consumer product that has changed in price because of it. There may be some, but no one has identified them to me. All you are saying is: “Well, it’s got nothing to do with that. It has to do with an attitude that because of free trade you can go across and shop at will without any duty or anything else.”

If that is the problem, then that is a relatively easy thing to address. It is a matter of education. You spend some money and you tell people, “Free trade does not allow you to go across the border and shop at will.” But the impression, and I hear this all the time—and again, my credentials are known; I was opposing the free trade agreement. I see member after member stand up and complain about job losses because of free trade or competitive disadvantage because of free trade.

When you consider, as I said earlier, that 80% of all of our trade in goods and services was there before free trade, the most significant thing that has happened is the change in the value of the dollar, because the 20% that was still in place was only between 7% and 10%. When we started negotiating the free trade agreement, the dollar was at 72 cents. It is now at 87. That 15 cents has wiped out any possible advantage that anyone would get from the free trade agreement.

What we have to do, if you think that is a cause for the cross-border shopping phenomenon, is relatively simple. You just take out full-page ads and say: “Free trade doesn’t give you the right to go across to the United States and shop at will. You still have to pay duty when you come back. You still have limitations. You still have all of these things. Don’t think that free trade will do that.”

The reason I bring this up is that I think this committee and the other committees that are looking at it have to come forward with recommendations on how to address the problem. We are not going to address the problem if all you are going to be doing is making fuzzy statements about, “Well, there are perceptions and there is this and

there is that, and what are we going to do about it?” I think we have to take a look at things.

If I could just add one more comment, we have found that the areas that have triggered the most trips to the United States, certainly in border communities—and then, of course, you have to define what is a border community, and I suggest that even Toronto is now a border community—are milk, gasoline, beer, cigarettes. Those are the things that are the trigger. Once people go over there, they buy lots of other things, but those are the trigger.

I would respectfully submit that in virtually every one of those areas, we as a provincial government can affect it. We can affect it because our taxes impact on all of those and exacerbate the problem. Those are some of the areas that we should be looking at.

The Acting Chair: If you could respond briefly, I would appreciate it.

Mon Mr Pilkey: I can respond briefly. The member can well appreciate, understanding the business that he and I and others around this table are in, that the question of perception and the question of commonly held beliefs are in fact very powerful tools. I think there needs to be found, as was suggested, a remedy to that circumstance.

I think in any number of things, anywhere from taxation policy to one’s car insurance policy to whatever, there are not many Ontarians walking around with the book. They know what they perceive they know, the information that they have. It is not always technical, and most shoppers are not technologists.

When you have a low level of enforcement, almost a wave-through, I think that reinforces people’s belief that it is somehow free and it is okay, that there is nobody checking and they do not care anyway. It is in that context that I think we were trying to make the point about attitude and perceptions. In fairness, that is not to argue against the technical points that are made, because that is true.

I notice the Treasurer is coming in following this presentation. The question of taxation on particular product levels or Ontario’s subsidy of particular product levels in the four that the member mentioned might be something that he may well like to entertain.

The Acting Chair: That is great, because we are winding down here and I would like to move on to Mr Turnbull and allow him an opportunity to ask a question.

Mr Turnbull: Minister, I was struck by what Mr Kwinter was asking. The question was put: What single item has been decreased as a result of free trade in the United States? We did not get a response to that, so it is quite obvious you cannot think of anything to hand.

You have said that essentially it is a perception problem. This free trade is a perception thing. But when we are dealing with something as vexatious as free trade and the implications for the Ontario economy and in fact the Canadian economy and the support of our social safety network that we have built up and we are all so proud of, surely it would behoove your government to stop dumping on free trade.

Every time we talk about cross-border shopping in the House, the answer comes from your benches that it is

because of free trade, and you yourself have admitted that this is not the problem.

Mr Sutherland: That's not true.

Mr Turnbull: Excuse me, Mr Chairman. Will you once again direct the other side to keep their comments until they have their time.

The Acting Chair: Mr Turnbull has a point. Please do not interject; he has the floor. Please continue, Mr Turnbull.

Mr Turnbull: Could you first respond to that, Minister?

Hon Mr Pilkey: I do not want to be repetitive. I tried to and I believe I did respond as accurately as I could—

Mr Turnbull: Would it not be more appropriate for you to stop dumping on free trade as the reason for it, since free trade has not made it more attractive to shop?

Hon Mr Pilkey: We identified seven or eight causes.

Mr Turnbull: I will go point by point. First of all, on this question of free trade, since you have implicitly admitted that free trade is not the cause of people going across the border, that it is a perception problem, surely you stoke the perception problem by giving this fallacious answer in the House and at all kinds of press conferences? Could you just respond to that specific question?

1150

Hon Mr Pilkey: I do not know who made the direct statements or what the context on a given issue or question was. I was simply responding that I believe that in the minds of Ontarians and everybody else, the free trade agreement sets up a mindset for people and they believe that to be the case.

Mr Turnbull: But it is not the case.

Hon Mr Pilkey: But also, when you see a federal minister—and I hope I am attributing correctly to Mr Jelinek—I think he came out with some kind of remark that it was a social problem or something. I am not sure of the words he coined. This was not really anything he could do anything about specifically; this was people's mindset and—

Mr Turnbull: But your government also seems to think there is nothing it can do about it. You have just increased the taxes on gasoline and a whole host of items. In fact, the federal gasoline tax is less than the US federal gasoline tax. The reason gasoline is so expensive in Ontario is because of the provincial tax, and that is one of the main items people are going across the border for.

Hon Mr Pilkey: Yes, but taxation and regulation and public policy in this province and in this country, in my view, do have an impact with respect to the price differential between the two nations. That will lead us into some very tough water and some questions of structure and approach which will be difficult indeed. I think that is where a lot of this problem lies. That is why people like you and me and any number of other people around the table are still at the margins on this argument, not being able to find the single obvious key to answer the door to the problem of cross-border shopping.

Mr Turnbull: I was attempting to go step by step because I agree it is a complex problem and there are many factors.

The first one I mentioned was free trade, which, you would agree, was a perception problem. I feel your government stokes that perception problem by blaming free trade. We have agreed it is not free trade that has caused the reduction. Gasoline tax is another item which is recognized as one of the causes of fuelling people to go across the border, if you will excuse the pun. It is very problematic.

Your government has increased taxes at such a rate that we have become very uncompetitive, yet Canadian federal gasoline tax is less than US federal gasoline tax. So the problem clearly is at the provincial level. Surely we should be addressing these items, and I am not suggesting in isolation that that is the only thing.

Clearly we recognize that when we look at alcohol and the level of taxation we have on alcohol in Ontario, that is as a result of government policy where it has decided to put relatively heavy penalties on alcohol for social reasons and, as well as that, to fund other important social projects.

Hon Mr Pilkey: Let's not excuse Ontario from its responsibilities. I think often when you hear members rise in the House, they do not give you a bare FTA comment. It is usually surrounded by high dollar, high interest rates, FTA, and a host of other things which try to speak to some of the cumulative causes that are causing a recession in the country.

Mr Turnbull: That is correct, Minister, but high interest rates, of course, are caused by deficits because you have to go out and borrow the money. As you add to your deficit, you exacerbate exactly the problem that you blame the federal government for, yet you are doing the same thing.

Hon Mr Pilkey: Before we trail off into that, what I was trying to point out is that these areas are within federal control, and I think many of these comments are directed towards the federal government and some of its public policies and fiscal policies, because it has been having, in the minds of many, a negative impact on any number of circumstances and well beyond our—

Mr Turnbull: My comments are directed towards your government, because we can certainly bring forward a report where we make recommendations as to what the federal government does, but we are specifically talking to you as a provincial minister. We have talked about the gas tax, which is too high.

Hon Mr Pilkey: Let me answer you—

Mr Turnbull: We have talked about the perception problem with the free trade, and you have agreed it is just a perception problem—

The Acting Chair: Excuse me, I am going to have to cut it off at this point, Mr Turnbull, because you have run out of time. I apologize, but I am going to move on because we have a long list of speakers. We have approximately 10 minutes left. Mr Bisson is next on the list, and then I will rotate the questioning.

Mrs Y. O'Neill: Mr Chairman, on a point of order: We are going to go and vote, which I understand you said we were. We do not have 10 minutes without a break.

The Acting Chair: It is a five-minute bell, so I am assuming we will have enough time. I will continue, and hopefully we will have enough time. It is a bit of a gamble.

Mrs Y. O'Neill: Yes, it is.

The Acting Chair: Unless everyone wants to come back for a few minutes afterwards.

Hon Mr Pilkey: Let's gamble.

Mrs Y. O'Neill: This is the lead ministry on this issue and I do not think we have had 45 minutes with Mr Pilkey. I really do feel it is important.

The Acting Chair: We started at 11:23 by my time, and 45 minutes will take us to 12:08 approximately. We are almost at 12 now. Unless we waste more time, we are going to finish at 12:08. I have Mr Bisson on the list. You have approximately five minutes, and then whatever time remains we will allocate among the three parties.

Mr Bisson: I think it is an interesting exchange that we have been into up to this point because we were speaking before with the previous witness, who was Mr Mackenzie, the Minister of Labour, as we talked about the whole question of what the ramifications are of me, as a consumer, deciding to go to shop on the other side of the border.

There are a couple of things that I want to get to. We can sit here all we want, quite frankly, as politicians, the Liberals, the Tories and New Democrats, and point fingers at each other until we are blue in the face. But the reality is that neither one of us, as either of these political parties, is perfect when it comes to this question. The feds in the last budget raised the taxes on gas and on cigarettes, and all of a sudden we do the same in Ontario because there are services that need to be rendered and all of a sudden we are the bad people.

The Liberal government was no shining example of perfection when it came to taxation in its five-year tenure as government. I think—

The Acting Chair: Could you stick to the subject matter, Mr Bisson?

Mr Bisson: Just one second. The point I am trying to make is—

The Acting Chair: Ask the question, please.

Mr Bisson: —a very important point. We, as politicians in this Legislature in Ontario, have a responsibility to be able to try to work out some of the social problems that we have in this province, which are also economic. I perfectly agree with the member of the opposition from the Tory Party, who says at times we tend to jump all over each other and try to blame each other for our problems.

The reality is we have a problem with Sunday shopping that can be addressed to a certain extent, but not only by government. What I am saying here is that the problem I have is that we turn around in this nation and we say every time that we have a problem it is strictly the government that is going to be able to give the solution. I think there has to be a common ground found, and also a partnership built between both the private sector and the government, to be able to sit down and to strategize how we can curb this.

You talked about perception. I think you hit the nail on the head. A big part of the problem we are having with Sunday shopping is, yes, it is cheaper in some instances to cross-border shop on certain items. People can say, "Well, let's rip all the taxes, both federally and provincially, off our gas, cigarettes, booze and the rest of it, and we're going to take away those loss-leaders on the other side of the border."

The reality is that we determined in this country years ago that we wanted to have a lifestyle and we wanted to have social programs to make sure that when my dear old mother has to go into the hospital to get a heart transplant or whatever it might be, it does not come out of my pocket. That costs bucks. So we have to raise the revenue somewhere.

The Acting Chair: Mr Bisson, if I could interrupt, we are—

Mr Bisson: The point I am trying to get to is simply this: What can be done with regard to some sort of working between both the provincial and federal government, as well as the municipalities, as well as the business sector and labour, to put together some fairly aggressive marketing campaigns by which we start explaining to people what we are doing as Canadians to ourselves when we go out and cross-border shop, and that in the end, we as consumers have a very big responsibility to play in this issue?

Is there anything going on in that particular direction and is that something that you would contemplate as something that we can very aggressively get in? The Americans are aggressively trying to take our consumers and get them to shop in the United States. What are we going to do to be able to say, "This is what the end result is," and market the whole idea of what Canada is all about?

Hon Mr Pilkey: Mr Friedman indicated at the top of his presentation that there has been a very broad consultation with any number of groups. The meeting will take place—I am not sure of the date; it is going to be either 25 June or 2 July, I believe—on the task force where finally all the players will come together at one particular place. Quite frankly, I think they have had sufficient time to review many of the aspects that need to be tested with respect to the issue. I am hopeful, coming out of that meeting with the federal government, the provincial government and the mayors, we will in fact come up with some solutions that will be effective.

The question of an awareness program I think is a very valid one. It is one that has been talked about. I think it enjoys the support of business, labour, government and all of the stakeholders involved in this, and more particularly the merchants in those border communities. I think your idea is a very good one. It is one that I think is likely to find favour, and we hope it would be effective.

1200

The Acting Chair: Can I just interrupt? I am sorry, Mr Bisson. I will ask for a recess as soon as there are division bells that we hear, and then at that point we can continue for approximately three or four more minutes and allow members to go up to the House to vote, if that is the

wish of the committee. Is a vote taking place? I just want to clarify this.

Mrs Sullivan: They just voted on Mr Jackson's bill.

The Acting Chair: There is the division bell. There will be a vote. We do not have to go yet. If members wish, we can come back.

Mr Turnbull: I do have to go.

The Acting Chair: In that case we will recess and ask the witnesses to come back for a further five minutes of questioning. I am informed by the clerk as well that the Treasurer only has until 12:30, which further complicates our work here.

Mrs Y. O'Neill: Mr Chair, a question if I may: I just wanted to ask you, you mentioned this—

The Acting Chair: Any further direction at this point about what we are going to do from the committee? I am sorry to interrupt you.

Hon Mr Pilkey: I can try to respond with a brief answer to a brief question, if that will help.

The Acting Chair: Okay, brief question, brief answer.

Mrs Y. O'Neill: Then we will come back as soon as the vote comes through? All right.

You have this document and you have given moneys to three communities that have been named. Could you tell me the status of where you are at with this document, and have you done any interim reports with Cornwall, Sault Ste Marie and Niagara on the document? Where are we with this document?

Hon Mr Pilkey: Yes, I believe they have. Peter, do you want to detail on it?

Mr Friedman: Yes, we are meeting regularly with the three communities. Very shortly we are going to assist Windsor as well to do something similar. The communities are all working on slightly different methods of using the documents. It is not just the three communities; all seven are using aspects of the document.

Mrs Y. O'Neill: When do you expect your final report?

Mr Friedman: I do not think there will be a final report. I think it is a continual—

Mrs Y. O'Neill: You are not asking for updates on how they are doing this?

Mr Friedman: Oh yes. We meet regularly. We meet with them once a month.

Mrs Y. O'Neill: Would it be possible for you to summarize for this committee what the results of this have been, since you are the lead ministry?

Mr Friedman: Sault Ste Marie, for example—

Mrs Y. O'Neill: We do not have time for a long answer. Could you present something in writing to this committee about the results of these?

Mr Friedman: Sure.

The Acting Chair: To members of the committee, shall we come back for further questioning, since the Treasurer only has until 12:30? We are going to be hard-pressed for time. Can we recess and allow our witnesses at this point to leave for the day? All agreement? Great. We are recessed

until after the vote has been taken. We will be rejoining you here.

The committee recessed at 1203.

1213

MINISTRY OF TREASURY AND ECONOMICS

The Acting Chair: I call the meeting back to order. We have before us the Treasurer of Ontario, the Honourable Floyd Laughren.

Hon Mr Laughren: This is Tom Sweeting, who is the director of our taxation policy branch.

The Acting Chair: If you would like to proceed, we have approximately half an hour. If you would allow some time for questions, that would be appreciated.

Hon Mr Laughren: Did you wish me to start off with some remarks?

The Acting Chair: If you wish.

Hon Mr Laughren: I thought I was coming primarily to answer any questions that the members might have but I think that, first of all, I could indicate my pleasure at coming before yet another committee dealing with cross-border shopping. I think you are aware that the standing committee on finance and economic affairs is dealing with this issue and is indeed going to be presenting a report very shortly, I believe, on the whole question of cross-border shopping.

It is one of those issues that bedevils us. It is not just an Ontario problem; I think we all understand that. The last time I checked—I do not imagine it has changed very much—there were 14 border communities in Ontario, as we define border communities. It is not just any one community and it is not just in Ontario. We have all heard of the problems, I think, in New Brunswick, Quebec, British Columbia, and perhaps others too, where cross-border shopping is seen to be a problem.

The causes are varied. We know, for example, that in some cases taxes play a role. I do not think there is any question about that. If you look at the taxes on gasoline and on cigarettes in all Canadian jurisdictions compared to the United States, there is an enormous difference. I would be the last person, whether in government or opposition, to apologize for those taxes. I think if you are looking at gasoline and cigarettes, which are the two most often used as examples, there are very good reasons for both those taxes. I regret they are as low as they are across the border, but I cannot do anything about that and neither can you.

I am very much aware too that the value of the Canadian dollar has a role to play in this. If the value of the Canadian dollar was somewhat different, that would help as well.

The Ministry of Industry, Trade and Technology has headed up a task force, if you will, of various ministries to look at this. The Minister of Revenue, Shelley Wark-Martyn, has had meetings with the federal Minister of National Revenue to talk about working together on the issue. We think there is an opportunity to do some marketing in the border communities, to talk to people in those communities about the importance of shopping at home.

I know it is tempting to cross the border to shop, and I do understand that, but the taxes pay for services that the very same people who are doing the shopping attach a great

deal of importance to, such as our medicare system, our education system, our highway system, our social services system and others. I regret very much that people shop across the border the way they do.

Also, there is the question of jobs. I look at Windsor and Sault Ste Marie, two communities that I am more familiar with than others. I see the impact on the retail sector in those communities and it is substantial. That in turn affects employment in those communities and the taxes that accrue to those communities. It is unfortunate.

When the budget was being prepared we were looking at the whole question of taxes, because we were going to raise and did raise the tax on gasoline. I was fretting about the cross-border communities. When we did the numbers—Mr Sweeting will correct me if I am wrong here, I am sure—we showed that we could take every single penny of Ontario taxes off gasoline and gasoline would still be five cents a litre more than across the border. Even taking all our Ontario taxes off would not resolve the problem. There is a different set of federal taxes and there are different pricing structures, not just on those products but on other products as well.

Not to get sidetracked on the issue of free trade, but I think when free trade was brought in, there came to be a growing perception that you could now shop across the border more readily. I know that is not a particularly logical kind of conclusion to come from it, but I think there was that perception in the public's mind, that now with free trade cross-border shopping was the thing to do and it would be easier to do.

With those opening remarks, I would like to leave an opportunity for some questions. I thought I would be here from 12 to 12:30, so I have a bit of pressure on time for another meeting which was scheduled for 12:30. I do not mind being a few minutes late, but I would appreciate not staying too much beyond that. I realize it was not this committee's fault, but I would appreciate that. I would be quite happy to try to answer any questions you might have.

Mr Bradley: I will try to state my questions as succinctly as possible. When you were considering the tax measures that you eventually put in, the increase on alcohol, the increase on cigarettes and the increase on gasoline, the ones I call the loss-leaders that draw people across the border from a far greater distance than used to be the case—it used to be the member for Niagara Falls and I would have seen it from our communities; now we see it from Oakville, Kitchener and areas like that—when you were developing your budget, did you take into consideration the potential impact on the border communities when you decided to raise those particular taxes to produce revenue?

Hon Mr Laughren: Yes.

Mr Bradley: Why did you raise them despite the fact you saw this?

Mrs Y. O'Neill: A straight answer, anyway.

Mr Bradley: The member for Niagara Falls is going to have to explain this on CJRN next time she is on.

1220

Hon Mr Laughren: I was trying to make my answer as succinct as your question. It is a serious question and it deserves a serious answer.

My own feeling was that 1.7 cents, or 3.4, if you want to take the two-staged increase, would not stop people. The difference was so great that this amount would not stop people from crossing the border to fill up their tanks.

The other problem was, where is the line on a border community? If, for example, we were to say, "Let's not increase the tax on border communities," I do not know where a border community begins and ends any more, because people are so mobile and will drive considerable distances to shop. I guess there is a limit on how far you would drive to fill up your tank. There must be a line where it would not make any sense at all.

We did think about it, but we decided not to do it.

Mr Sweeting has just given me a note that the Quebec minister came to the same conclusion apparently, because they do have different prices, I think, in the border communities in Quebec on gasoline.

Mr Sweeting: They have a varying rate schedule. Mostly the focus is in the Hull area between Ontario and Quebec, and then in the major outlying remote areas of Quebec it focuses.

Hon Mr Laughren: And they increased their gasoline in two stages of 2 cents each in their recent budget.

The other thing—let's not tiptoe around the issue—is that given the size of the deficit, we were very concerned about revenues as well. There is no question that the tax increases and the cigarette increases—there are other reasons for those increases, as you know: conservation, environmental. I know that your ears prick up every time I talk about environmental reasons, Mr Bradley. That was a factor as well. We did not really want to start undermining our revenue base by making exceptions, because there are people who argue that Toronto is one of those communities that now shops across the border and that you had better include Toronto as a border community. At what point do you undermine your tax base totally?

Mr Bradley: I guess my question was more related to the application of the tax across the province. When I said, "Did you take into consideration border areas?" I meant it in the context of applying, "Add new tax, period." I know what you are talking about when you say how difficult it is to treat individual communities in a certain way. I may like that, but I know the difficulty of administering that. But I was thinking of the whole province.

The second thing you mentioned was free trade. I think your observation is accurate, as far as I can see, that people had concluded that free trade meant they could go across the border. But since your leader said he was going to thwart free trade at every turn, I know we will not have that free trade agreement in this province for long.

Hon Mr Laughren: He was picking up where the previous Premier left off.

Mr Bradley: You mean the one you criticize so heavily.

The other question I would have, because you are the Deputy Premier and the Treasurer and you sit in the major committees of cabinet, is, when you look at any new legislation that you have coming in, or new regulations or new policies coming in, you have to look at a lot of implications. Are you taking into account the impact of those on

cross-border shopping? Do you take everything you do that can increase costs on this side of the border into consideration, or is that a major factor, I suppose I am asking, when you are doing that? I recognize not everybody lives near a border, even though we are subject to it. Do you give that serious consideration?

Hon Mr Laughren: I think it is something that is being forced upon us to consider. I am the first to confess that when I took over this job, that was not uppermost in my mind. I really was not aware of how big an issue it was. That is perhaps a confession one should not make, but I really was not aware of how important this issue would become, and indeed has become.

We do in Treasury try and keep a very close eye on the impact of any changes on the private sector, because we know we are in a time when the buzzword out there, and appropriately so, is competitiveness. We are very concerned about not only the reality but the perception of competitiveness. It is almost like the cross-border shopping issue. Once it becomes a mindset, it becomes reality. We are very concerned about that and trying to keep an eye on the impact of any government changes, regardless of the ministry involved, on competitiveness.

Just to conclude that comment, it is not just taxes—and my friend from the Conservative caucus might raise his eyebrows at this—it is things like environmental regulations and labour legislation as well that we want to make sure we keep a close eye and consult with the private sector on, because if there is one thing that they tell us, it is, “For heaven’s sake, don’t consult after the fact, consult before the fact so that you can get some input from us.”

Mr Bradley: There is a coalition that has asked the government for some funding to promote shopping on our side of the border. I saw an article in a newspaper a couple of months ago now, I must say, where they did not receive funding. Your government decided they would not receive certain funding. I realize this is not as straightforward as simply my saying, “You should do it,” and your saying, “Well, we can’t.” It is difficult, because you have to chose where you are putting it. Are you contemplating providing some assistance, or will the government itself decide to embark upon some kind of campaign showing some advantages of shopping on our side of the border?

Hon Mr Laughren: Was that the OSSTF, the teachers’ federation, you were referring to?

Mr Bradley: They were involved in one of those.

Hon Mr Laughren: Anyway, one of the teachers’ federations.

Mr Bradley: Down in the area of the member for Niagara Falls, the Niagara Peninsula, there was a group there, I think, of retailers and others—

Hon Mr Laughren: I see.

Mrs Y. O’Neill: Shop Ontario.

Mr Bradley: Shop Ontario. They were looking for some funding to promote shopping in Ontario. Are you contemplating providing funds there?

Hon Mr Laughren: Could I hedge my answer on that one a bit, for two reasons? One is the report from the other

standing committee that is going to make some recommendations to us. I have not seen that report. I do not know what is going to be in it. The other was the efforts of our Minister of Revenue with the Minister of National Revenue. My own view is that it should be a joint effort or marketing in the border communities. That is why there is a bit of a hedge in my answer on that. I would like to see that happen.

Mr Bradley: My last quick question, because I know you have others who want in on this, is the new Sunday shopping legislation you brought in. Have you people done any studies or have you seen studies which show the impact? A lot of people will say it has one effect or does not have an effect. Do you actually have any studies under way or have you done studies or had access to studies to show what effect that has on cross-border shopping?

Hon Mr Laughren: I do not know of any, because I think the consensus of opinion seemed to be that cross-border shopping was not a Sunday shopping problem, but a seven-day-a-week problem, in that the rules applied to Sunday shopping would not—I am not saying would have zero impact, but would not be the major problem.

Ms Harrington: I would like to give you my personal point of view and then ask you a couple of questions that I need a little help with.

First of all, it has taken quite a while with my own family—in fact my own husband, who is a very good New Democrat—to get them to break the habit of getting gas across the border. I would like to say that gasoline is a trigger. We have heard a lot about the triggers that bring people across, and the difference between saving \$10 on a tank of gas and saving \$5 on a tank of gas does make a difference, I believe, to that habit of going across. I personally think that, if given half a chance, Canadians do want to support and do want to shop in Canada. There has to be some way to break that habit.

I think what we have learned this morning and in our other committee as well is that people shopping across the border are buying into the US system. We are beginning to realize this. This is the bottom line, and as you said, whether it is the environmental regulations there or whether it is the labour regulations there, whether it is their discrimination or their slums, that is what we are buying into when we cross that border. How do we get that message across?

Sunday is the 50th anniversary of the bridge commission and the Rainbow Bridge in Niagara Falls. I have been asked to speak across the border and then have those officials come across to our side. I am dreading the thought of going across the border on Sunday. Shall I bring a picket sign, or what would be appropriate?

1230

Hon Mr Laughren: We must maintain good relations with our friendly neighbours.

First of all, on the question of a tankful of gas, if you take the two-staged increase of 1.7 cents now and 1.7 cents on 1 January, that is 3.4 cents a litre on a tank of gas. That is roughly \$1.50 in very round numbers. I do not think

people will drive a long way because of that difference of 1.50 on a full tank of gas.

I am not sure how we educate people. I had the very distinct pleasure a couple of months ago of driving across the border at Buffalo with an opposition member of the legislature, and his tank was empty as we crossed the border into Buffalo. I did not want to say anything, but I was just waiting. That member, being the great Canadian that he is, did not fill up on the other side of the border. I would never drop the name of that member. It was a good hockey game too. I did not go across to buy anything, other than to see a good hockey game.

I really do believe it is important to get the message out here that you mentioned. I do not belabour this because I know it sounds terribly self-serving, but when I was in New York and Washington just in the last couple of weeks, I really was struck by the differences in our major cities. This is not meant to heap abuse on American cities, but you cannot have our quality of life without paying for it.

When the United Nations brought in its report saying that we were the second-best country in the world in which to live because of our quality of life, there is a reason we are right up there. One of the reasons—obviously not the only one, though—is the relatively high taxes here in many areas, in many ways, compared to there. I do not think we should pretend that this is not the case. I think we should acknowledge that and talk about what it delivers.

I know some people think that is good in theory but it is terribly idealistic and we cannot compete if we do that. I could spend the next hour talking about how we would like to compete in the 1990s, and it is not on low-wage, beggar-my-neighbour, lowest-common-denominator kind of competition. I think it is going to be a high-value-added kind of economy that we head into. Look at countries like Japan and Germany. They are not competing at the low end of the scale. I do not think we can either. We have too much going for us to rely on that.

I hope I have answered your question.

Ms Harrington: Is there any way that we can educate and promote? That is what we have to do. We have to get the message there.

Hon Mr Laughren: I would like to see some of it done in the school system. One cannot be coercive about it either. I think that would backfire. But I think there does need to be a lot of education done, and I think that has to be done with the right attitude going into it, that this is a positive thing to shop at home, not to heap guilt on people who do shop across the border but to show the positive aspects of shopping in Ontario.

That is why I really believe this. This is not meant to be passing the buck to the federal government, because I think we have to play a role in it, but it would be really nice to develop a very good system in which the federal government had a major role, because it is a Canadian problem, not just an Ontario problem. It would be really nice to have them play a major role, even in educational materials, whether they are videos or written material for the schools and paid advertising in the communities. I would suspect that in a lot of the communities you could

draw upon the goodwill of the media as well to help out, because they have a stake in it as well.

Mr Turnbull: As one of the very few people in the Legislature who immigrated to Canada as an adult—

Hon Mr Laughren: And we are pleased you did, Mr Turnbull.

Mr Turnbull: Absolutely, and so you should be.

Hon Mr Laughren: Despite your twisted ideology.

Mr Turnbull: I too feel that we have to protect the institutions of Canada which we hold so dear, medicare and the welfare system, albeit I think your government happens to be going about it in the wrong direction. You have mentioned the fact that you think you should have a co-operative approach with the federal government. One of the things mentioned by one of the ministers to speak to us earlier was the whole question of harmonization and how the federal government had said, "Look, we will collect taxes at the border but only if you harmonize with the GST." I asked this question and she said it would be more appropriate to direct it to you at the time.

In opposition you always ran on the platform that some businesses were not paying their fair share of taxes. That is a fair comment. One of the great problems with the tax system we have has been the fact of policing those people who are getting away with it.

Hon Mr Laughren: I am sorry, I missed your last comment.

Mr Turnbull: When the federal sales tax was brought in, the manufacturers' sales tax, early in this century, it was a very broadly based tax. About 80% of our gross national product was attributable to the manufacturing sector, and it slowly diminished to about one third of our GNP today. Therefore, the manufacturers' sales tax was moved progressively on to one small portion of our economy. In one significant way, the GST allows the government to more adequately track those companies or sole proprietorships that were getting away with cash transactions. It becomes easier to police. It could be stated that it should be easier in the future to identify those people who are not paying their fair taxes.

Given that, why would you have a philosophical disagreement with the idea of harmonization, with all that implies? You would move some taxes on to the service sector which does not currently have them; in other words, a reshuffling of taxes so that we have a more rational system both federally and provincially. Hopefully we could reduce other taxes and in this way address this very real problem of cross-border shopping.

Hon Mr Laughren: I think the best way I can answer that is to say our sense was that it was not the way to impose taxes, that the GST was not a good alternative to the manufacturers' sales tax. We developed a set of alternative proposals that we think would not have done any damage to anyone, but would have made the manufacturers' sales tax fairer and more appropriate, if I can use those words, and changed some other taxes. It would have collected at least as many taxes, if not more, for the federal government but would not have put it in the

form of a GST which is applied to the purchaser. So I guess it is a philosophical disagreement on the way you raise taxes.

Mr Turnbull: Are you suggesting, then, that the whole of the common market is wrong in having a GST type of tax?

Hon Mr Laughren: No. They have decided to go that way. That is fine, I am not quarrelling with them. I guess it is a case of what kind of tax regime you want to have.

Mr Turnbull: So you find it appropriate that a small portion of our GNP be subject to federal taxes as opposed to spreading it more evenly across the spectrum. The GST makes it easier to police the distribution of the burden.

Hon Mr Laughren: That is probably true. I am not sure of that, not being an expert on federal tax collection. Let's face it, we tried to raise the issue during the debate at the federal level on the GST, the inadequacy of the low-income tax credits and the unfairness on social agencies that have to pay the GST. We would have been opposed to it anyway, but it would have been a little more palatable if there had been a more substantial set of low-income credits for people; that plus the housing. The whole impact on housing I think is substantial as well.

Did you want to add anything to that, Tom? That is a good point. I am glad the words are here. We have asked the Fair Tax Commission a couple of questions—

1240

Mr Bradley: Is that like the NDP tax commission?

Hon Mr Laughren: No, no. This is the Fair Tax Commission. I do not even think half the members of that commission are that familiar with the NDP, and certainly are not members of it, which is a very fair distribution—

Mr Bradley: I cannot believe that.

Interjection: I am having a little difficulty too.

The Acting Chair: I am glad we clarified that.

Hon Mr Laughren: They appeared before the committee. That was the evidence from the committee. I was surprised at that myself.

These are the questions we have asked the Fair Tax Commission: What changes should be made to Ontario's retail sales tax now that the federal government has implemented the goods and services tax? Maybe they will say none, maybe they will say harmonization. I do not know what they will say.

The second question was, are there any changes that should be made for administration or policy reasons as the result of having both Ontario's retail sales tax and the federal GST collected at the retail level? There has been some pressure—a lot of people would prefer it if we harmonized with the GST because it would make it so much easier administratively. So we will await their response. You could appreciate the fact that if we had come into office and as one of our first acts, tax changes, harmonized with the GST, there would have been raised eyebrows, to say the least.

Mr Turnbull: Yes. Given the platform you have occupied in the past, I agree.

Hon Mr Laughren: No, that is exactly the point.

Mr Turnbull: In terms of fairness and good sense would have applauded you, but it would have certainly raised eyebrows relative to the position your party had taken.

Hon Mr Laughren: It is good to talk to a fellow politician who understands these things. So before we do anything, really even consider it seriously, we are waiting until we see what the Fair Tax Commission has to say about it.

The Acting Chair: Mr Turnbull, I do have to move on. I have a few more questioners. I would like to ask Mr Duignan to be next after Mrs O'Neill. There are three minutes left. Mrs O'Neill is first. Would you please try and divide that evenly?

Mrs Y. O'Neill: I have a very brief question. Thank you very much, Treasurer, for coming this morning. I was told by your colleagues in the Ministry of Revenue that you are really the person I should ask questions of if I want to know about creativity or taxation policy.

Hon Mr Laughren: Quite a lot of people use that argument—

Mrs Y. O'Neill: That she only administers, but you actually create the policies. You have just given us an idea of the direction you have given within the tax commission, and I am very pleased you have brought us up to date on the questions you have placed before this group. Are there any impact studies, policy studies taking place right now in Treasury that have to do with changes in policy measures that would deal with this very important issue?

Hon Mr Laughren: I will ask Mr Sweeting to help me out here but I think, before the GST was being applied, when it was being introduced by the federal government, there were studies done by Treasury on the impact of that in Ontario. There is some of that kind of work around that has already been done. But following that, when the Fair Tax Commission was—I would assume that Treasury backed off a bit when we asked the Fair Tax Commission that question. But I would ask Mr Sweeting to comment on that.

Mrs Y. O'Neill: Are you members of the MITT inter-ministerial?

Mr Sweeting: Yes. You were referring to the cross-border issue in general in terms of—

Mrs Y. O'Neill: Exactly, that is what we are meeting on.

Mr Sweeting: —studies and that sort of thing. We are participating to the extent that we are supporting the efforts of the MITT committee in terms of different options for dealing with the issues. The Treasurer said it is a very difficult issue. We have been trying to see if there is some possibility that taxes could be considered as part of the solution, but there is no apparent easy answer, no easy way. You know the Treasurer has been quite direct in dealing with the difficulties around the gas tax and the possibilities on that particular front. We are trying to see if there are some things that would be helpful.

Mrs Y. O'Neill: Are there any studies under way at the present moment?

Mr Sweeting: Studies probably would not be an appropriate characterization. We are looking at certain kinds of tax issues as we look at a broad variety of issues on the taxation front that have to do with the potential changes with respect to the cross-border issue.

Hon Mr Laughren: I am sorry, I thought you were asking about the GST. I did not realize—

The Acting Chair: I have to move on to Mr Duignan for the last question. We have run out of time, so we are going over.

Mr Duignan: Briefly—it is a big subject. I am talking about enticing tourists to come not only to Ontario but to Canada. Have you looked at the situation in the common market where they have an aggressive campaign to encourage tourists to apply for the rebate on their particular VAT? For example, go into any major store in England or Ireland and you can get a docket filled out in that particular store, put in it an envelope which you either mail back or deposit at your port of entry. In some cases they have an office set up where you actually get the tax rebate when you leave the country. I was wondering whether you are looking at something like that in conjunction with the federal government. Have you given any sort of consideration to that type of scheme?

Hon Mr Laughren: I do not know if we are but I would ask Mr Sweeting. If we are, I am not aware of that.

Mr Sweeting: We have a rebate program now for retail sales tax for people who are visitors to the province called "Ontario—Incredible!". I think that is the official name. It has been around for a number of years, in which goods that are removed from the province are—the tax can be claimed from the Ministry of Revenue. There is also treatment of accommodation, taxes paid on the service of accommodation that also can be claimed back. You know the federal

government has a program as well as part of their new GST. I believe there are some discussions going on between the federal and provincial officials at the official level as to whether both levels of government should offer programs aimed at recognizing the return of taxes paid by tourists. But I am not specifically familiar with what those discussions are doing.

Hon Mr Laughren: Could I add something to what Mr Sweeting said? There is a meeting next Monday in Charlottetown of the federal and provincial finance ministers, Mr Mazankowski and all the provincial finance ministers, and this is actually on the agenda. Cross-border shopping is one of the items on the agenda, so it will be an interesting discussion, I think.

Mr Duignan: Very briefly on that point—

The Acting Chair: Very, very briefly.

Mr Duignan: In the European countries they greatly encourage the visitors to apply, which does not happen here.

Hon Mr Laughren: I know what you are saying. We do not have a real promotion on it, though. I suspect all provinces have a similar program, would they not, Tom, in terms of getting a rebate?

Mr Sweeting: Some do.

Mrs Y. O'Neill: Mr Chairman, I would like to make a request that if something comes out of this meeting next Monday or if there is a policy within our province that it be presented in writing to this committee, because it is an issue that is very closely related. If you find an update we would certainly appreciate having it tabled here.

Hon Mr Laughren: Okay, we could commit to do that.

The Acting Chair: We are adjourned. Thank you very much, members of the committee and the Treasurer, for your patience.

The committee adjourned at 1249.

CONTENTS

Thursday 6 June 1991

Cross-border shopping . . . . .	.G-909
Ministry of Revenue . . . . .	.G-909
Ministry of Labour . . . . .	.G-915
Ministry of Industry, Trade and Technology . . . . .	.G-920
Ministry of Treasury and Economics . . . . .	.G-926
Adjournment . . . . .	.G-931

STANDING COMMITTEE ON GENERAL GOVERNMENT

Chair: Mancini, Remo (Essex South L)

Vice-Chair: Brown, Michael A. (Algoma-Manitoulin L)

Acting Chair: Cordiano, Joseph (Lawrence L)

Abel, Donald (Wentworth North NDP)

Bisson, Gilles (Cochrane South NDP)

Drainville, Dennis (Victoria-Haliburton NDP)

Duignan, Noel (Halton North NDP)

Harrington, Margaret H. (Niagara Falls NDP)

Mammoliti, George (Yorkview NDP)

Murdoch, Bill (Grey PC)

O'Neill, Yvonne (Ottawa Rideau L)

Scott, Ian G. (St George-St. David L)

Turnbull, David (York Mills PC)

Substitutions:

Bradley, James J. (St. Catharines L) for Mr Scott

Cordiano, Joseph (Lawrence L) for Mr Mancini

Dadamo, George (Windsor-Sandwich NDP) for Mr Drainville

Daigeler, Hans (Nepean L) for Mr Brown

Kwinter, Monte (Wilson Heights L) for Mr Scott

Offer, Steven (Mississauga North L) for Mr Scott

Also taking part:

Sullivan, Barbara (Halton Centre L)

Sutherland, Kimble (Oxford NDP)

Clerk: Deller, Deborah

Staff: Rampersad, David, Research Officer, Legislative Research Service



-22 1991

G-22 1991

ISSN 1180-5218



Legislative Assembly of Ontario

First Session, 35th Parliament

Official Report of Debates (Hansard)

Thursday 13 June 1991

Standing committee on general government

Cross-border shopping
Organization

Assemblée législative de l'Ontario

Première session, 35^e législature

Journal des débats (Hansard)

Le jeudi 13 juin 1991

Comité permanent des affaires gouvernementales

Magasinage outre-frontière
Organisation

Chair: Remo Mancini
Clerk: Deborah Deller

Président : Remo Mancini
Greffier : Deborah Deller

Published by the Legislative Assembly of Ontario
Editor of Debates: Don Cameron



Publié par l'Assemblée législative de l'Ontario
Éditeur des débats : Don Cameron

Table of Contents

Table of Contents for proceedings reported in this issue appears at the back, together with a list of committee members and other members taking part.

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at (416) 325-7400.

Languages in Hansard

Hansard reports all debates in English or French as spoken by the participants. It does not translate remarks made in either language. Headings and tables of contents reflect language use.

Subscriptions

Subscription information may be obtained from: Sessional Subscription Service, Publications Ontario, Ministry of Government Services, 5th Floor, 880 Bay Street, Toronto, Ontario, M7A 1N8. Phone (416) 326-5310, 326-5311 or toll-free 1 (800) 668-9938.

Table des matières

La table des matières des séances rapportées dans ce numéro se trouve à l'arrière de ce fascicule, ainsi qu'une liste des membres du comité et des autres députés ayant participé.

Il existe un index cumulatif des numéros précédents. Les renseignements qu'il contient sont à votre disposition par téléphone auprès des employés de l'index du Journal des débats au (416) 325-7400.

Langues paraissant dans le Journal des débats

Le Journal des débats rapporte en anglais ou en français les débats, selon la langue utilisée par les participants. Les remarques faites en l'une ou l'autre langue ne sont pas traduites. La langue des en-têtes et de la table des matières reflète la langue utilisée.

Abonnements

Pour les abonnements, veuillez prendre contact avec le Service d'abonnement parlementaire, Publications Ontario, ministère des Services gouvernementaux, 5^e étage, 880, rue Bay, Toronto (Ontario) M7A 1N8. Par téléphone : (416) 326-5310, 326-5311 ou, sans frais : 1 (800) 668-9938.

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON GENERAL GOVERNMENT

Thursday 13 June 1991

The committee met at 1011 in room 151.

CROSS-BORDER SHOPPING

Resuming consideration of the designated matter pursuant to standing order 123 relating to cross-border shopping.

The Chair: I call to order the standing committee on general government. We are resuming consideration of the matter designated by Mrs O'Neill pursuant to standing order 123 relating to cross-border shopping.

Last week we heard from the ministers and the deputy ministers of Revenue, Labour, Industry, Trade and Technology and Treasury and Economics and used a total of two hours and 29 minutes. This leaves nine hours and 31 minutes for consideration of this matter.

CITY OF CORNWALL

The Chair: The agenda before all members this morning indicates the first presenter for this morning is the Cornwall Business Council being represented by Mike Metcalfe. I call Mr Metcalfe forward. Please have a seat and make yourself comfortable, sir. For the record, we would like you to identify yourself and whom you are representing. You have been allocated a total of 20 minutes. That includes your presentation and questions, if there is time within that 20-minute time frame.

Mr Metcalfe: Thank you and good morning. I am Mike Metcalfe from the economic development department, city of Cornwall, representing both the city and its business council. I am delighted to be here and that I am first up.

Cross-border shopping has been high on a number of agendas in recent months. Border communities are being affected to varying degrees, ranging from moderate to alarming. That Cornwall is being affected is an unalterable fact. To what degree is difficult to pinpoint at this juncture, but indications are that its local economy is suffering. The lines of traffic aimed southward across the Seaway International Bridge most certainly attest to that.

There is increasing anger and frustration over the issue, along with strident cries of, "Do something." The brunt of the demands to do something and to solve the problem are focused at both you, the provincial government, and the federal government. Everyone knows it is your fault, that you have created this mess and it is up to you to get us out of it.

You will be relieved to know that my remarks today will chart a different course. Name-calling and blame-casting are counterproductive, and besides, you have heard it all before. Instead, I would first like to inform you with some facts and figures about Cornwall, its economic condition and current quality of life, then I would like to identify from the city's perspective the reasons for the increase in day trippers to Massena, New York, and finally I would like to offer some suggestions, positive and perhaps useful

ones, that may provide you with that elusive window of opportunity.

First, the facts and figures: Traffic has increased dramatically on the bridge between Cornwall and Massena. Paid transits, which generally mean the average motorist, made 650,000 trips across the bridge in 1988. In 1990, this figure had increased to approximately one million, an increase of 55%. The increase is significant and disquieting, I am sure you will agree. What is even more disquieting is the fact that for a considerable period of time in 1990, bridge traffic was dramatically curtailed by the Akwesasne affair. You will recall that was a time when Cornwall was affectionately known as CFB Cornwall.

As the figures are scrutinized further, it is revealed that 62% of those travellers came from Cornwall and Ottawa. Their destination generally was Massena, with its large new shopping mall. What is most significant, however, is the Canada Customs data showing that from 1989 to 1990, duty collections in Cornwall increased by 1,382%. That percentage is doubly alarming when compared to Windsor, which claims to have been devastated by the cross-border shopping issue. Its increase was a mere 458%.

If one zeroes in on the purpose for the day trips taken by our community, it is generally to buy gas, groceries, liquor and meals. As we examine figures for some of these items, a portrait of economic woe begins to appear. Take liquor sales, for instance. According to Ministry of Industry, Trade and Technology statistics, sale of liquor in the Cornwall region rose 27% less than the regional average. That converts to \$750,000 in lost revenue to the province.

Gasoline sales are particularly hard hit in Cornwall. The Akwesasne reserve, with its tax-exempt status, is able to sell regular gasoline at a current price of approximately US\$1 per gallon. A conversion to imperial gallons and the application of a 15% exchange rate results in the Canadian equivalent of \$1.44 a gallon. The 10 June 1991 price of regular unleaded gas in Cornwall was the equivalent of \$2.66 per gallon, or 58.5 cents per litre.

It is all very well to preach, "Stay at home," but there is an unfortunate reality here. Dollars spent on groceries and meals are hard to quantify, as no specific customs figures are kept, and to determine the number of meals eaten during a one-day trip would be sheer speculation. However, judging from remarks about grocery bargains and dinners at wherever made by local citizens, coupled with the number of Ontario licence plates spotted in Massena establishment parking lots, the problem seems obvious. Lest we forget, there are the bridge lineups.

From a retail perspective, the news is little better. Again using statistics compiled by MITT, we have been able to determine that the dollar loss in retail sales in Cornwall between 1989 and 1990 amounted to an estimated \$12.5 million. That is an outflow of just under \$300 for every

man, woman and child in the city. With total retail sales in Cornwall for the period estimated at \$350 million, the outflow represents 4% of our total sales. Nationally, retail sales losses due to cross-border shopping are said to be roughly 1% of the total. It is obvious that Cornwall is paying more than its share.

A recent study in the Niagara region suggested that a dollar outflow of between \$120,000 and \$150,000 equates to one full-time job. If the figures are true, then Cornwall has lost 100 jobs. That of course does not take into account the lost sales due to gasoline purchases made in the United States. The city has had a number of plant closures during the past 18 months, closures that have cost 1,400 jobs. It did not need the loss of the additional 100.

Enough of statistics; you already know most of them. They are, however, necessary to illustrate the extent to which Cornwall is being affected by this incessant US exodus. Coupled with the recession and its resultant plant closures, the gauntlet has indeed been thrown down at Cornwall. Let me assure you that the city is prepared to pick up that gauntlet and meet the challenge, but it cannot do it alone. So we have some thoughts and suggestions to present to you.

First, if I may offer a somewhat acerbic comment, one spawned from your dealings with the federal government, stop bickering. It is time to get on with the job. Unquestionably the problem is a serious and complex one and it requires considerable dialogue, but this continual rhetoric and finger-pointing must stop, because it is not solving the problem. It is time you erased provincial party lines and ceased to regard your federal counterparts as adversaries. While you continue to do so, Rome is burning.

From a Cornwall perspective, we see four principal components to the cross-border issue. While we do not claim sole proprietorship to them, we would like to identify each one: (1) a strong Canadian dollar; (2) a general GST backlash; (3) the media, and (4) marketing capabilities within the retail sector. As one examines the four points from a provincial perspective, two of them are issues beyond your direct control, specifically the strong dollar and the GST. While the city strongly urges you to continue your lobbying efforts towards reducing our dollar's value, the issue may well be beyond your jurisdiction.

1020

While the GST is a federally levied tax and beyond your control, you do have the authority to collect the provincial tax, possibly at duty collection points. Mr Pilkey's 10 June announcement about a plan to collect PST has been guardedly welcomed by Cornwall city officials, although there is some confusion about the announcement. We will await with interest further developments.

The media: At the outset, the media have played an influential role in exacerbating the cross-border issue. At a recent meeting of national interest groups sponsored by the Retail Council of Canada, there was general consensus that the media have created a bias by highlighting what appear to be low prices in the United States while at the same time giving little or no coverage to the other side.

As a point of interest, the Cornwall Chamber of Commerce launched a service excellence program—and there

is an appendix in our presentation giving you some details on that—to promote the city and its business community, and it was a successful program too, according to initial results. The program's media launch unfortunately took place the day after the announcement of the Peace arch crossing entry project. The media chose to focus on the negative implication of it rather than Cornwall's positive initiative. Further, a comparison shopping report, which is another appendix in our presentation, clearly showed that grocery prices were highly competitive in Cornwall. Our local media were supportive; the Ottawa media, a mere hour away, were completely indifferent.

The city of Cornwall would like to recommend that the government launch its own media campaign. It has the expertise; it must have the will. We cannot sit back and wait for something to happen or for someone else to do it. We must be proactive and aggressive. Ontario has good businesses with top quality goods and services. It is time to tell the story. Why not take a page from the Ontario brewers' book of advertising? Moral issues notwithstanding, they do a first-class job of promoting their product. As one views the outstanding promotional programs developed by our own tourism ministry, there is no question that the government is equal to the task.

Retail marketing: We hear consumers talk about choice. We hear talk about a better selection in the United States, and it is often given as an Ontarian's rationale for shopping there. The immediate Ontario retailer's response to that kind of talk would be swift and indignant. The fact remains, however, there is talk.

Let us suppose for a moment there is some truth to the rumours, that perhaps there is room for improvement. Suppose further that the pundits who have been suggesting current woes result from retail's inability to compete are right. If those suppositions are true, then it is time to act.

The Retail Council of Canada has taken a leadership role in bringing together representatives from a cross-section of retailers, manufacturers and associations, all of which are being affected by the cross-border issue. We suggest the government articulate with the retail council to develop a province-wide, indeed, a national program of marketing enhancement.

The program, aimed primarily at small business but useful to large ones too, would focus on effectively identifying and targeting market segments specific to the goods or services they sell. The result will manifest itself in a highly competitive retail business community which, speaking metaphorically, would have the bulldozer to level its own playing field.

There are logistical hurdles to clear to be sure, not the least of which being a venue from which to deliver such a program. It occurs to us in Cornwall that with 23 community colleges strategically located across the province, that hurdle might well be cleared through the government's own Ministry of Colleges and Universities.

There is also an advertising restriction on Ontario business wishing to target US customers. It seems that the incurred expense is not allowed as a legitimate tax deduction. What that means is the Americans can advertise in the Ottawa Citizen and they can claim it as a business expense. If

one of our merchants advertises in the Massena papers, it cannot be claimed as a legitimate business deduction. Your lobbying efforts to the federal government in this regard would help to eliminate the practice.

To close, I would like to share a recent incident with you. As a result of a local news item, my office received a telephone call from the port director, port of Massena, New York. He wanted to discuss consumer perceptions, and was I interested in listening to his perspective? I was.

The meeting lasted three hours and it was one of the more interesting meetings I have ever been in, and if anyone is interested afterwards, I would delight in telling you about it. The theme of his remarks was simple yet telling. In effect, he said this: "You people are good people. You have much to offer, but you do not promote yourselves enough. I realize that we Americans tend to flag-wave too much sometimes, but it is time you did more." By the way, this guy has Canadian roots. He has United Empire Loyalists in his background.

The suggestions from Cornwall may result in more flag-waving locally, provincially and nationally, but let us be clear on these points: We can be as competitive as the Americans, we have the ability to meet them and beat them at their own game, we can level our own playing field.

The Chair: The committee has approximately seven or eight minutes left.

Mr Mammoliti: I have a short question. Recently, Otto Jelinek increased the fines at the border for smuggling. Do you think that will have a significant impact on smuggling?

Mr Metcalfe: Let me answer it this way. At a 22 April meeting of the Retail Council of Canada, Canada Customs reported on bridge traffic, duty collection and so on. They reported to us that they have never apprehended more than 7% of the population for untoward smuggling. This has to do with customs parachuting in, for want of a better term, a SWAT team unannounced and doing some very thorough checks on traffic going over the bridge. You may have experienced, if you have been crossing over, that all of a sudden customs officials were a little fussier than they usually were. That is probably what it was. They claimed that whenever they do this, and of course they can only do it for a short period of time because the word gets out fairly quickly, 7% was all they were ever to apprehend. That being true, and it being such a low figure, I am not so sure that there is an issue as far as Jelinek's announcement is concerned.

Ms Harrington: I am from Niagara Falls, so I can appreciate some of your remarks. I would also very much like to have our economic development person here to see if his feelings are the very same as yours. I imagine they would be similar.

I want to first of all let you know that another standing committee of this government, the standing committee on finance and economic affairs, has been looking at this issue and in the last two weeks has been putting together recommendations which should be out soon. I believe one of those will be a sort of educational, promotional campaign. We do not have the details of it, but we certainly are going

in that direction. I believe that is the most helpful way to go, as I think you are feeling as well.

I was going to ask you about how Cornwall was implementing this marketing strategy. Maybe I could talk to you or you could give me some more information about that, because that sounds like a very good idea.

I was also going to mention to you that our Niagara College of Applied Arts & Technology—you mentioned community colleges—has sent out letters to almost 30 different agencies and people and politicians, saying that it wants to get involved in a course.

The Chair: I am sorry, Ms Harrington. Mrs O'Neill.

Mrs Y. O'Neill: I thank you very much for coming. I certainly heard about your situation every day almost from John Cleary, your member.

Mr Metcalfe: I wondered how my name was passed down.

Mrs Y. O'Neill: In any case, I really thank you for the charts you provide at the back. I think it will be most helpful to us regarding the pricing of groceries.

Mr Metcalfe: Can I interject a point right there? If you look at that chart, contrary to perceptions that it is all cheaper in the United States, 22 of the 40 items we shopped for were either cheaper or the same price in Canada.

Mrs Y. O'Neill: The Retail Council of Canada has proved the same thing.

Would you tell me a little bit about the work you are doing with MITT and the interaction you have with the framework structure. I know you are one of the seven cities. Could you tell us a little bit about how that is going.

Mr Metcalfe: I will define that a little more tightly. We are one of the three awarded a \$10,000 grant last fall to implement some marketing initiatives.

Mrs Y. O'Neill: They tell me now it is seven.

Mr Metcalfe: There are seven involved, but we got some seed money from them subject to matching funds from Cornwall. Our flagship program is what we call a service excellence program, and there is a brief press release summary of it in your notes. It has worked very well. What it does is recognize top-quality customer service performance rather than complain about those who do not do a good job. The results have been very positive. We are getting comments coming back to us from a variety of sources that seem to indicate that service, if anything, is getting better in Cornwall. People are getting caught up in this idea of providing the best possible service and making it so inviting to shop in Cornwall that suddenly a trip across the bridge is really, "Why bother?"

1030

Mrs Y. O'Neill: So the MITT experience has been a good one.

Mr Metcalfe: They have been very helpful. Peter Friedman, who is director of Small Business Ontario, has been most encouraging and most helpful and I believe we can expect even further co-operation from his office.

Mrs Y. O'Neill: Do we have time for a very short question from Mr Brown?

The Chair: Very short question.

Mr Brown: I was in Sault Ste Marie last week and it is of course another community with a big problem. They had spent a great deal of money on a study asking the question, "Why do you go the United States to shop?" One of the prime reasons given was the lure of gas. Specifically they would go across the border just to buy gas and then they would buy a number of other items. But the real reason people would go on a weekly basis was the fact that they could save about half the price by going across. Is that your experience?

Mr Metcalfe: Yes, and not only is it our experience, it is doubly hard on us because the reserve does not pay any tax. I will plead guilty to this one, but I have an excuse: I have family in the United States and I have stopped and purchased gas on the reserve on my way through. A \$36 tankful in Cornwall costs me about \$19, including exchange.

Mr Turnbull: Mr Metcalfe, a very good, thoughtful presentation. Above all, I am impressed by the comment, "Stop bickering between all the levels of government." I agree with you completely. Have you done a demographic profile on who is going across, or is it all societal levels that are going across to shop?

Mr Metcalfe: As we speak, a study is currently under way, again with co-operation from St Lawrence College in Cornwall, to take a look at our community to find out who is going over and why.

Mr Turnbull: What are your feelings about the fact that clearly liquor and gas are two items that traditionally governments in Canada have heavy taxes on to support our social network?

Mr Metcalfe: If we all stopped drinking and smoking, the economy would collapse, so I do not think it is a practical solution. By the same token, if I can go back to this media campaign, instead of admonishing people for going over and saying, "You're crippling our social benefits system," blah, blah, blah, why not promote the fact that when you shop in Canada, you support one of the best health care systems in the entire world, and take that very positive approach? When you talk to a millworker in Cornwall and say, "Look, don't you go shopping in the United States; we need your money here," the millworker's response is: "Hey, I work hard for my money. It's hard to come by. Don't you tell me where to spend it." He is right, so let's be positive.

The Chair: Mr Metcalfe, I wish I could give you more time, but I am not allowed to. Thank you for your presentation this morning.

CANADIAN SHOE RETAILERS' ASSOCIATION

The Chair: Moving right along, the Canadian Shoe Retailers' Association is next on the agenda. Please come forward. If you could identify yourselves and whom you represent, what organization, and the position in your organization. The committee has allocated you 20 minutes and we are going to work on the same basis as we did with Mr Metcalfe.

Mr Assaly: My name is George Assaly and I really represent the downtown Cornwall business improvement

area. With me is Sharon Maloney, who is president of the Canadian Shoe Retailers' Association. As I said to start with, my presentation will probably be a little different from Mr Metcalfe's, whom I work with very closely on cross-border shopping in the Cornwall area. As I said, I am chairman of the downtown Cornwall business improvement area, a member of the MITT border communities task force on cross-border shopping, an executive member of the Cornwall Business Council and a member of the executive of the Canadian Shoe Retailers' Association. My business is Jay-Gee Shoes, a retail shoe, luggage and accessories store I founded in Cornwall 45 years ago.

The statistics on cross-border shopping are well known to you, but statistics alone cannot clearly illustrate the social and economic costs this plague is exacting from our province. We have all read in the past week the MITT committee figure of a \$2.2 billion loss—I say billion, not million—in retail sales and over 14,000 jobs lost in Ontario alone. I do not know if you believe these figures. I personally believe them to be too low and too immediate. They do not include the estimated job losses which result at the manufacturing and distribution levels of our economy. For this reason, the data published this week by the Canadian Federation of Independent Business carries greater credibility when it predicts an even greater loss in dollars and jobs.

The federation's survey showed that over 13% of the respondents believe the survival of their business to be in serious jeopardy. In addition, over 8% of the respondents said their survival would depend solely on the move of their retail business to the United States. I can tell you as an aside that one of the largest producers of women's hygienic products in Canada has reported the last two months were probably the worst sales that it has had over the history of the company. Here is something, and I do not say it facetiously, that does not depend on the weather and it does not depend on the seasons, and yet their business, reported by the retailers, is drastically reduced, which will cause a drop in their manufacturing jobs because of shopping in the United States.

The costs of cross-border shopping are compounded by the rise in duty-free parcels, which we forget about, entering Canada from US catalogue sources; 2.8 million parcels crossed in 1989 and this increased to almost 30 million in 1990. These are duty-free parcels. That is like 30 million additional one-day crossings because of the duty-free situation. I could go on and on, but the real tragedy is in the lost jobs and the lost dreams of thousands of small businesses in our province. Most of you sometimes forget that small business and the tourist industry are Ontario's largest employers. Believe me, if it was the automobile industry, there would be panic in the streets. We are frustrated. Federal and provincial politicians pass the blame, pass the buck, talk about long-range solutions and say they do not want Band-Aid solutions.

When you have a cut on your finger, you put a Band-Aid on it and then later you go to the hospital to get the stitches. Believe me, in the present situation we do not need a Band-Aid; we need a tourniquet because we are haemorrhaging to death in this province. We are frustrated to see politicians—I am going to name them and I wish

ney were here—like Ian Scott, one of Canada's most brilliant lawyers, attack the Attorney General and the Solicitor General on every subject you can think of, Mr Harris leading a filibuster on the budget, Mrs Akande demanding jobs for the handicapped, the visible minorities and women. What the retailers want to see is our members on their feet using that much energy and expertise to come up with a solution to cross-border shopping, or there will not be any jobs for the people Mrs Akande is championing or many others. I know what is happening in your constituencies and I charge you to lead a fight in your caucuses to find a solution. This is a very important problem.

I cannot understand why our members have not demanded an emergency session to debate the most serious economic problem to confront Ontario since the Second World War. Is the estimated loss in tax dollars in Ontario, which is almost \$500 million in provincial and municipal taxes, irrelevant? Are these not the funds which underpin the superior social benefits we in Ontario have worked so hard to achieve? Where will the money come from to continue our universal health system, our safe communities and our superior and universal educational system? Sault Ste Marie, Sarnia, Cornwall, the Niagara area, Windsor and Thunder Bay were the first to suffer, but now it is even Owen Sound and Ottawa.

Let me tell you that those places are now feeling the pressure. The lost jobs and the lost incomes are devastating, and these are people we are talking about, not statistics. We must have a solution, not Mr Jelinek's solution, which makes every cross-border shopper a criminal. People should be free to shop wherever they want, but we want that choice to be Ontario. To do this we must be competitive in price, product, quality and service so that the shopping experience in Ontario is the most logical choice for the consumer to make.

1040

To do this, it is essential that the gasoline taxes in Ontario be reduced drastically so that the price of a litre of gasoline is only marginally higher than the price in the United States. It is generally accepted that the price of gasoline, and that alone, is what triggers cross-border shopping. It was mentioned just briefly by the previous gentleman.

Losses in gasoline taxes would be offset by the greater volume of gas sales and increased revenue resulting from increased retail sales in the province. Reduced gasoline prices will also rejuvenate—and it needs rejuvenating—the \$15-billion Ontario tourist industry, which is suffering because of the present cost of gasoline in the province. I am very concerned about the tourist industry. I am a commissioner of the St Lawrence Parks Commission and I can tell you that in our discussions about tourism, we are so concerned about the cost of gasoline, which is hurting our tourism industry across the province.

We must also have immediate implementation of provincial sales tax at the border. Our communities can no longer afford to be caught in a battle of wills between the provincial and federal governments. We need this action now.

I could finish by citing the names of dozens of businesses in your ridings, some second- and third-generation

businesses, which will disappear because of cross-border shopping. I ask you to help us protect the legacy we will leave for generations to follow. You people are our leaders; we depend on you. We need your help. Please, do not let us down now when we need you.

Ms Maloney: I have no brief that I am submitting this morning; we have submitted a brief to the standing committee on finance and economic affairs, which has been sitting and dealing with this issue. We also have provided to Mr Friedman at the Ministry of Industry, Trade and Technology a proposal on behalf of the Canadian Shoe Retailers' Association and four other organizations which deals with training, improving service in Ontario and using associations such as ourselves as resource people to go into these communities and work with government to develop some programs.

It is our belief that certainly there are some very substantive problems that have to be addressed. The most obvious is the price differentials that we are dealing with in a variety of commodities, which is contained in our brief that we have already delivered.

That being said, we are also of the view that a number of our retailers, both in our sector and in other sectors, are not equipped to deliver the kind of customer service to compete in terms of merchandising, in terms of marketing. There are many things that can be done to make us competitive. There are many things that can be done by the retail community within the communities themselves, and these are not necessarily expensive things, nor do they require a lot of timing, but they are immediate things, and I think Mr Assaly put his finger on an issue here. I have heard a number of people talk about Band-Aid solutions. The difficulty that we find ourselves with on this issue is that we have a series of problems and a series of programs and a series of taxes which have accumulated to create a major differential between the prices in our commodities as well as the way we market ourselves. What we have to do is go in and perhaps deal on a very immediate basis with small problems and hopefully address the larger issue by doing that.

That being said, we are here to lend support to Mr Assaly's submissions. We endorse completely what he has said. Our organization is a national organization. I think Mr Assaly has articulated extremely well what our members are facing, not just in border communities but in all of the provinces across this country. It is a very desperate situation and it is becoming more desperate, because frankly our members are not seeing any action and are tired of hearing people talk about this issue. We would like to see somebody take some steps to deal with it.

Mrs Y. O'Neill: I just have one question. Mr Assaly, you did mention the duty-free parcels. I know you have extensive experience and knowledge about that subject. Not many people do. Could you tell us a little bit about how that is affecting your business?

Mr Assaly: This again will mean that when you are discussing cross-border shopping, there has to be some communication and co-operation between the various levels of government. Our Canadian consumer is being flooded

with catalogues from the United States, selling everything you can think of, different products from shoes, which affects us, to clothing, to hardware, you name it, and the federal government has said that these parcels coming over by the mails are duty-free—it does not stop them—if they are under \$40.

There is no random check that we know of being done on these, and people are bringing over an unbelievable amount of merchandise. There are stores opening—there is one opening I think in Ottawa very soon that will have just catalogues from American companies for sale. You can go in and buy a catalogue for \$1 or \$2 or \$5 or just pay to look at all the catalogues and order there from all these American companies. There is one in Toronto now. Now, that is 30 million parcels. As I said, that is almost like every man, woman and child in Ontario going over and buying something three times a year, and this is a very serious thing that has to be addressed.

Mr Turnbull: Mr Assaly, as you know, many years ago, import licences were applied to importers of shoes and those were of course put on by the federal government in order to protect the jobs of Canadian manufacturers of footwear. My understanding is that this has caused the people who have those licences, which were just dependent on how much they were importing at the time—these have become a tradable commodity and they literally rent out or sell their licences. In addition, they have gone up market to the extent that they have a licence for so many pairs of shoes, so they have gone to more expensive shoes because they are more valuable. There is a tradeoff it seems, in my mind, between protecting Canadian jobs and ensuring that we have a supply of reasonably priced goods in the retail stores, which extrapolates your point.

Mr Assaly: Do you mind if I let Ms Maloney answer that? She is our expert in that field.

Ms Maloney: Mr Turnbull, I would like to refer you to the brief that we submitted, and in point of fact you are correct. In the footwear industry, which in our view is an industry that is representative of a number of industries in this country, the attitude of the federal government has always been that the part of the industry which should be supported and protected is the supply side, as opposed to the distribution side, of the industry. We have had a philosophy therefore for almost 50 years of severe protectionism being put into place to protect our domestic suppliers, the belief being that the market they should be addressing is the domestic market rather than the American market or global market.

As a result of that, quotas were introduced. Quotas restricted supply. Quotas benefited a number of people who had licences; you know, import permits. They moved up market. It meant that lower-priced footwear was not available to Canadians, particularly Canadian women, I might add. I think Canadian women have suffered by far the most from this regime.

Quotas were removed when it was recognized or believed that we were moving into a slightly different era and we should be a little more competitive, but within a year of the removal of quota, an antidumping complaint was filed.

The materials you have received this morning refer to that complaint. You will note in this document that as early as 30 April 1990 we said, "If you proceed with this dumping complaint and if you find that there is dumping and impose severe dumping duties, what you are going to do is force the issue and force people to cross over to the United States and buy their footwear there."

We knew the GST was coming in. We recognized that the additional expense put on footwear, especially in the low-end categories, would only lead to what we are currently experiencing, certainly in the footwear industry, and although different industries have had a variety of forms of protectionism put into place, what they have all amounted to is additional taxation on these commodities. It was fine as long as we lived in a community where people were not aware of the fact that they could access these materials immediately south of where they were living. That is no longer the case.

1050

Ms Harrington: I appreciate your coming, Ms Maloney and Mr Assaly. I appreciate your straightforward approach.

I want to briefly comment on your concern about the priorities of the way government is run. I believe that economic health is basic, and I have brought directly to our leader, Bob Rae, the Premier, the concerns I have about economic health in my riding, specifically things like food processing. We cannot proceed with our social justice agenda or even our constitutional agenda without the very basis of our society, and that is the economic health, and I would like to assure you that the Premier understands that. In fact, this was the basis of his speech to the NDP convention on 3 March, I believe, so I would like to assure you that we realize that reality.

Mr Assaly: That is greatly appreciated, but perhaps I should point out that with the previous speaker, Mr Metcalfe, the question came from somebody about what the Ministry of Industry, Trade and Technology was doing and how Cornwall was one of three communities that had received \$10,000. I was the person who applied for that for the business council, and it was very well used. There was \$50,000 allocated approximately a year ago, which was divided among three communities. This year we asked for additional moneys for that particular segment, and this year there is nothing in the budget. The \$50,000 is not even available this year. We now have gone from \$50,000 to help cross-border shopping for seven communities to nothing, so I thought I should point that out to you.

The Chair: Thank you very much for your presentation. Unfortunately, time is limited and we would like to hear the next delegation.

Mr Assaly: Thank you very much.

Mr Mammoliti: Thank you, Mr Chairman.

The Chair: Very good, George. I cannot manufacture the time.

Mr Mammoliti: With all due respect, you cut me off halfway last time I was asking a question.

The Chair: I also cut off Sharon Maloney halfway during her response to Mr Turnbull.

Mr Mammoliti: My question was pretty important as well.

The Chair: Well, if there is consensus in the committee to increase the time that you want to use for every delegation, then the Chair will work to your instructions. If not, I can only work to the clock, which is directly in front of me. I have no alternative.

Mrs Y. O'Neill: I think we held a discussion about these things last week and we came to agreement on the rules, which you are enforcing.

The Chair: Thank you. Okay.

ELAINE VACHER

The Chair: Elaine, if you could just identify yourself for the record, and whom you are representing. The committee has allocated you 20 minutes and that includes any time left over for questions.

Ms Vacher: My name is Elaine Vacher and I am from Tallmire's Fashions in Ottawa. I am spearheading a group which is meeting in Ottawa this morning that will represent over 3,000 Ottawa retailers to try to handle this cross-border shopping issue.

It is a pleasure to come before this standing committee to discuss with you cross-border shopping and I thank you for the opportunity. The cross-border shopping issue has become a very frustrating issue for many retailers and businesses throughout the province. Many of us fear for our future if billions of consumer dollars continue to travel south of the border. Cross-border shopping has already had a devastating effect on some of our communities. Border towns are fast becoming ghost towns. This is an issue that will not go away; in fact, it is increasing at a very alarming rate. Same-day trips in Cornwall increased 89% from 1989 to 1991.

While it is true that Ottawa is approximately 50 miles away from the US border, we in Ottawa have felt the effects of consumer shopping south of the border, some more than others. We have our share of bankruptcies and business closures creating unemployment, businesses hanging on by cutting overhead and reducing staff and staff hours, and a loss in revenue to our local economy. Many businesses in Ottawa are experiencing serious difficulties and many will not survive. The fewer businesses there are, the fewer jobs there will be. This will create greater unemployment and an even greater burden on our social services, which are already stretched to their limit.

Many local businesses, retailers as far away as Kingston, mall managers, hoteliers, tourist operators and concerned members of our community are meeting in Ottawa this morning, as we speak, on this very issue to determine what initiatives we can put in place to help revive the local retail and business activity in our community, as well as to come up with some very aggressive strategies to help protect our local economy against cross-border shopping. It is time that local retailers, businesses and politicians worked together to try to find solutions to this problem.

While it is not the intention of our group to tell Canadians they cannot cross-border shop, it is our intention to inform and to educate them about the consequences cross-border shopping will have to themselves, their neighbours and their communities if billions of dollars continue travelling south of the border. At the same time, it is our intention to involve and encourage all politicians, businesses and concerned Canadians to work together and to participate in finding solutions to this growing problem, also recognizing the need to protect our local economy, our communities and Canadians at large.

As we see it, local businesses have two choices: either to stand idly by and go bankrupt or close, adding to the unemployment figures and becoming another statistic, or to pull together and protect our market share. By pulling together, we feel we can pool our resources, our talents, ideas and finances to develop some very viable initiatives.

Cross-border shopping is not just a retail problem; it is a problem which affects all Canadians. Nor is it just a federal government problem. While it is true that free trade, recession, high unemployment, higher taxes in Canada, higher operating costs in Canada and the GST have all contributed to Canadians spending their consumer dollars south of the border, Canadians must realize we pay more because we have more. Nothing is free. As Canadians, we must ask ourselves if the short-term gain of shopping south of the border is worth the long-term pain all Canadians will definitely feel down the road.

Many argue that cross-border shopping is in fact a consumer tax revolt. Others say consumers need to shop across the border to make ends meet. Others believe everything is cheaper south of the border. Canadians surveyed, as well as those we have talked to who shop south of the border, do so to buy cheaper gas, cheaper tobacco products, liquor, dairy and poultry products, clothing and appliances.

If we are to encourage Canadians to shop in Canada and at the same time promote Canadian tourism to the Americans, we must address the reason Canadians flock across the border and the items they are purchasing, which this provincial government could address first by reducing some of the gas tax brought in with the last provincial budget. I listened with great interest Sunday afternoon to a replay of a debate which took place last week in the Legislature regarding private member's Bill 102. The member for Cornwall was requesting a reduction in the tax on gas brought in with the last budget, which he believed would help the local economy of Cornwall, encouraging those residents to support their local economy by removing one of the major reasons Canadians cross the border. We believe not only that this initiative would be beneficial in the Cornwall area but that this should be implemented across the province. We believe the provincial government could use this opportunity to finally help the business community by working with it to create concrete action to help curb the ill effects of cross-border shopping.

There is no simple solution to cross-border shopping. We need politicians in all levels of government to show leadership in addressing this issue. The provincial government must encourage all residents of Ontario to support their local economy. They must educate all residents of

Ontario that shopping in their local communities is indeed a wise investment in their future and in Ontario.

1100

We urge the provincial government to collect PST from cross-border shoppers at the border. If the provincial government is unable to collect that tax at the border and if the only way the federal government will agree to collect the PST at the border is to harmonize PST and GST, then the provincial government should move with all haste to do that. Assuming that the provincial government would recover most of the taxes now lost at the border, perhaps then in order to offset the loss of exemptions this would cause, the provincial government could look at reducing the harmonized tax. We believe those Canadians who go south on day trips would be discouraged from doing so if in fact they had to pay duty, GST, PST and, in most cases, New York state tax, thus removing the incentive for most Canadians to travel south to shop and encouraging them to shop in Canada.

If we are to survive as a community, as a province and as a nation, we must be prepared to sacrifice in order to survive and succeed. To this end, each time we cross the border to shop we forfeit a small piece of our independence. Each time we choose to support an American business, we not only discount goods and services but we inadvertently choose to discount our collective self-worth as a people and as a nation, because if we will not support our economy, how can we expect anyone else to do what we are not willing to do ourselves? In our quest to escape the taxman, inevitably we will abandon our neighbours, our communities and ourselves.

The provincial government must take the responsibility and must show the leadership to address this issue now if small businesses, local economies and border towns are to stand a chance of survival. We do not have the luxury of time on our side while we all argue who is to blame. It does not matter who is to blame; it matters who is going to do something about this. We urge the provincial government to form a partnership with the business communities throughout the province of Ontario, working side by side together with them to initiate strong policies which would address this problem now.

We are in serious trouble. Nearly 2,000 retail companies with 27,000 full-time employees will be forced to close up shop in Canada if we do not do something. Time is running out for many businesses, retailers, their employees and their families in the province of Ontario. The time to act is now. We need your support, we need your leadership, we need your assistance and we need a commitment.

Mrs Y. O'Neill: Thank you so much, Elaine, for making the choice to come to Queen's Park. I know that with the meeting this morning it was a difficult one. I am sorry there are not more members here. We do have the House sitting at the same time. Everything you have said is recorded and this is a high-profile issue.

I would like to ask you to say a little bit about some of the strategies you have suggested, because I know your group has already done some creative thinking which you did not mention.

Ms Vacher: I have given everybody a copy.

Mrs Y. O'Neill: Would you please suggest a few of the strategies that you, as retailers, are beginning to work on? I do hope you will get the co-operation of the government in doing some of these things.

Ms Vacher: One of the suggestions the meeting in Ottawa which I was to chair this morning will discuss will be that if we cannot sell Canada to Canadians, then in order to protect our market share we are going to have to go after the American market and fight fire with fire.

We will send Canadian buses down across the border and we will bring Americans back to the Ottawa area, including Cornwall as we come through. We will offer them a weekend of shopping and sightseeing. We will work with the hotels, restaurants, shopping centres and stores and direct those Americans into the Ottawa area so they can both shop and sightsee, hoping to pick up the tourism area in Ottawa, which is suffering greatly. A lot of our hotels are in trouble. We had thought to put students on the buses to use them as Canadian ambassadors.

Another idea we have come up with is to send 20 to 30 people from Ottawa to every border, alternating each weekend. We will hand out Canadian flags to remind Canadians they are Canadians, those who are going south of the border. We will print up pamphlets which list all the services our tax dollars pay for and what they will lose if millions of dollars continue going across the border. I do not think people understand that. I think people have been misled. I think it is up to this government to tell them, and if not, we in Ottawa will start telling them. That is one suggestion.

A suggestion has come through that we open a post office box. We will ask Canadians who shop on the other side of the border to send us their receipts, no names. We will tabulate those on a daily or weekly basis and we will deliver them to the Prime Minister's desk so that he will know exactly how many dollars this country and this province are losing across the border.

Another suggestion is that we make up buttons somewhat similar to the one I am wearing.

We are going to encourage the media to be more responsible. I do not know if anybody here gets the Ottawa Citizen, but this is how we have succeeded in Ottawa to make the Citizen more responsible to this community, through a Shop Canada supplement with all the reasons why we should shop in Canada. We will be doing, hopefully for the 1 July weekend, Shop Canada windows—strictly Canada, we are hoping—all through the city of Ottawa to make a very silent but positive statement. Those basically are the ideas they are tossing around in Ottawa this morning.

Mr Drainville: It is a great pleasure to have heard your response. I want to say as an individual person, not so much as a member of the government, that it has always been my own policy and the policy of my family not to shop anywhere other than in Canada. When we buy clothes and when we buy things like televisions and what have you, we buy Canadian. We have always done that. Even on my business trips going south, I do not get duty-free

goods from other countries. That is the way I have always approached it.

The things you have suggested are extremely important. It is my hope as well that the government give strong leadership in this area. There is no question, and again I am expressing my own personal opinion here, that it does make it very difficult when Canadians go and spend their money in the United States. For those who are retired and spend a great deal of time in the United States, I do not at all begrudge people the opportunity to go to other places, but they have to realize that there is a price to Canada when they go and travel for long periods of time and spend their Canadian dollars in the United States and not in Canada.

We have a very severe problem and it is one that is going to need a great deal of effort at every level of society. I just want to commend you for your very comprehensive approach to the issue here and to say how much I personally support that.

In terms of the taxation, there is no question some Canadians are going south because of provincial sales tax and GST and other taxes. It is a perplexing problem. I do not want to downplay it in the least. As a member from a rural area who spends a lot of money on gasoline, as my constituents do, this has been a major consideration and problem for us. I would love to see the gas tax go, but I also realize that the government is facing a dilemma: Do you get rid of the tax on gas? What do you do with the deficit? We are talking about a significant amount of money which we are going to then have to tack on to the deficit, because somehow we have to pay for the services and the programs we have.

There are others who say the way to get at this issue is to cut those programs and services. That is where, of course, we are in a bind, are we not? Canadians are now very used to having a fine educational system, a fine health system, a fine social service system and therefore they feel that with all that back at home, why not go to the United States as well and make up the difference by getting goods at a cheaper price, but of course buying them in a place where people do not have health, education, etc.

Ms Harrington: I would like to particularly thank you for coming today when you had other obligations which were important. I found your presentation one of the most thoughtful I have heard, a very good presentation, not specifically focused on your own concern but on concerns we all have.

I just wanted to tell you that I believe our government and every level of government should be involved. I will tell you why. I believe that when we do shop in the United States we are buying into the whole US system, which is something you mentioned, the US culture. I happened to be in Niagara Falls, New York last Sunday sitting at a table with some US politicians and businessmen. This was brought home to me when I heard them discussing their delight at meeting in Washington with Norman Schwarzkopf the week before. I am thinking, we are buying into US foreign policy, we are buying into US labour policy, we are buying into US environmental policy and people do not realize this.

The other thing I wanted to congratulate you for is your direct access to the federal politicians. You in Ottawa have a unique opportunity there.

1110

Ms Vacher: Thank you. Being born and raised in Ottawa, it scared me when 100 business people recently attended a seminar in Ottawa to find out how one could set up a business south of the border. I attended a breakfast meeting just before I came here and listened to business people from Toronto saying, "You know, if this continues and somebody doesn't do something, we are going to pack up and move across the border."

I think this problem is much more serious than I, sitting here, could ever stress to you. I have never heard so many Canadians who own businesses in this province say: "Enough's enough. We're getting out." I urge you to address this today, this week, not next year.

LUMBER AND BUILDING MATERIALS ASSOCIATION OF ONTARIO

The Chair: The Lumber and Building Materials Association of Ontario is listed as next on our agenda. Please come forward and make yourselves comfortable. We ask you to identify yourselves, your position and whom you represent for the record and we will be proceeding along the same manner as with our other presenters.

Mrs Hancock: My name is Hannah Hancock. I am the executive vice-president of the Lumber and Building Materials Association of Ontario. My colleague is our members' services manager, Steve Johns.

The LBMAO is a not-for-profit association that represents approximately 58% of the retail lumber and building supplies stores in Ontario. That includes home centres and some hardware stores. The LBMAO's retailer members, ranging from the major chains such as Beaver Lumber and Cashway to the small independent stores, generate over 80% of the industry's total annual sales volume in Ontario, which runs around \$2 billion. The LBMAO also has some 260 associate members. Included in this category are manufacturers, wholesalers, distributors and buying groups, among others. In short, the LBMAO is the largest regional building supply association in Canada.

The LBMAO has been taking a proactive role in attempting to seek solutions to the cross-border shopping phenomenon for the past two years. As a matter of fact, we had alerted the former Minister of Revenue, Remo Mancini, about this because of the problems our members were having in Sault Ste Marie.

While the seriousness of the issue was originally brought to my attention by a member from Sault Ste Marie, numerous LBM dealers from such border towns as Windsor, Sarnia, Niagara Falls, Fort Erie and Cornwall have since appealed to us to place the cross-border shopping issue at the top of the government affairs agenda. The LBMAO believes that all levels of government in Ontario, and for that matter Canada, have a fundamental obligation to take any and all measures falling within their respective jurisdictions to improve the competitive environment for Canadian business in today's globalized economy. Moreover, the Canadian economy is starving for stimuli, and I

know that LBM retailers and suppliers are looking to government at least to lay a foundation from which they can build a degree of competitiveness with their international, and in particular US, counterparts.

With regard to the cross-border retailing issue, I can assure this committee that LBM retailers in border communities are willing to do the work necessary to present themselves to the marketplace as viable alternatives to the US-based Grossman's, Builder's Square, Wickes and other US-based LBM retailers that are vigorously pursuing our markets. All they ask from government is a competitive climate in which to operate.

In a meeting organized by the Retail Council of Canada that took place in Niagara Falls on 23 April 1991, representatives of some 50 trade associations, chambers of commerce, all three levels of government and assorted other interests identified certain key factors that combine to make shopping in the United States an attractive alternative. While anomalies such as distribution channels, price competition, margins, raw material costs, transportation costs, regulatory burdens and the inflated value of the Canadian dollar were acknowledged, the greatest degree of concern related to labour costs, taxation and the lack of collection of the 8% provincial sales tax on goods being delivered into Canada—walking across, driving across or being delivered across from the United States.

It is precisely these issues that the LBMAO views as being resolvable within the spirit of responsible government of bilateral co-operation between Queen's Park and Ottawa. We agree with the former speaker on the bickering between the federal government and the provincial government on the issue of one tax.

At this time, I would like to take a couple of moments to deal with those issues of greatest concern individually.

On the issue of labour costs, notwithstanding the Ontario government's close alliance with labour, this government must be prepared to curtail what has been, since the election of the Liberal majority government under former Premier David Peterson, a rapid-fire imposition of measures that have formidably escalated the cost of doing business. I am talking about small business. The Employer Health Tax Act, Bill 208, the Occupational Health and Safety Amendment Act and Bill 14 respecting pregnancy and parental leave are but a few such measures which have impacted small business dramatically. Other initiatives such as Bill 70, the proposed employee wage protection program and promised minimum wage increases, while well intentioned, carry with them formidable implementation and compensatory costs that must be borne by the business sector.

On the issue of taxation, the much-ballyhooed tax increases applied to gasoline and diesel fuel included in Treasurer Floyd Laughren's recent Ontario budget have been greeted with dismay by LBMAO member companies with large sales staffs out on the road in delivery trucks. When combined with excessive municipal and federal taxes and corporate taxation measures of the sort promised in the throne speech that opened the first session of the 35th Parliament of Ontario, some LBMAO border town retailer members have directly stated that if they cannot

make money here, they are thinking of disposing of their businesses and moving south. Needless to say, these are daunting alternatives, given the thousands of jobs that are possibly at stake and the associated potential additions to our unemployment and welfare rolls.

With regard to the collection of the 8% provincial sales tax on goods being brought or delivered into Ontario from the United States, the LBMAO views the resolution of this issue as not only the most important step in levelling the playing field, but also as the one which the provincial government is obliged to carry out under the Retail Sales Tax Act.

Recent media accounts have quoted National Revenue minister Otto Jelinek as being willing to co-operate in this regard. Now is the time for Mr Jelinek's Ontario government colleague, the Honourable Shelley Wark-Martyn, to join forces with him in facilitating an efficient provincial sales tax collection process. Furthermore, it is the LBMAO's position that the magnitude of this issue transcends all political and philosophical considerations. One need only examine some of the relevant numbers such as the following, to substantiate this view.

Statistics Canada estimates the value of lost retail sales in Ontario to same-day trips to the United States in 1990 to be approximately \$600 million; 1991 estimates of Ontario PST lost as a result of cross-border shopping are as high as \$115 million; the net outflow of same-day travel to and from the United States in the second quarter of 1990 was \$1,447,236. Of the seven quarters between the fourth quarter of 1988 and the second quarter of 1990, inclusive, a net outflow has been recorded in six of those quarters.

1120

In July 1990, the LBMAO conducted a comparative pricing survey on 14 high-traffic building materials. The survey sample included LBM retail stores located in border and non-border communities. With two exceptions, the border town store prices were lower, with the differences ranging from 1.5% to 15.3%. All that was profit margin. The subject data are attached to this submission as appendix A.

Given that pricing in the retail LBMAO industry is predominantly market-driven, these pricing data clearly illustrate that border town LBM retailers are facing formidable challenges in their efforts to remain competitive while sustaining some profitability. After all, while suppliers may sympathize with the plight of border town retailers, they are not in a position to adjust their pricing on this basis. In the meantime, border town retailers are also subject to the byproducts of recession, the same regulatory burdens imposed on non-border Ontario retailers and of course declining sales volumes. Their problems are simply exacerbated by their close proximity to the United States, and consumer products that by and large are less expensive and destined to remain so under a regulatory and taxation structure of the sort currently in place in Ontario.

In closing, the evidence that cross-border shopping in its current form has catastrophic potential for Ontario border town retailers is clear and irrefutable. Therefore, the LBMAO recommends the following:

1. That the Ontario government, in considering policies and legislation directly affecting Ontario business, endeavour

to make decisions within the context of competitiveness in a global environment;

2. That the Ontario Minister of Revenue immediately initiate discussions with her federal counterpart aimed at devising and implementing an efficient process by which provincial sales taxes owing on products brought or delivered into Ontario from the United States for use in Ontario may be collected, harmonizing the PST with the GST;

3. That the Ministry of Consumer and Commercial Relations, in collaboration with the Ministry of Industry, Trade and Technology and the Ministry of Revenue, initiate a comprehensive consumer awareness education program highlighting obligations under the Retail Sales Tax Act for remittance of provincial sales tax on goods destined for Ontario from the United States, and the potential negative revenue and/or employment implications of removing economic activity from Ontario border communities.

Mr Brown: Thank you very much for your presentation. It is valuable to us.

I want to pick up on your second recommendation, which has to do with the GST and collecting provincial tax at the border points. I think we were all concerned with the meeting Ms Wark-Martyn had with Mr Jelinek and what came out of the meeting, although we do not know what was discussed behind closed doors, the sense that Mr Jelinek said, "Fine, if you harmonize with the GST; there's no other way." It seems to a lot of us that there could be another way. Is the recommendation you are making here, though, that the GST and the PST be harmonized? Is that really what you are telling us?

Mrs Hancock: Yes. Is that not correct?

Mr Johns: I do not think there is any question that would be the cleanest, most efficient way of dealing with the problem. Given certain partisan political considerations, that may or may not be something that will come to pass, which is unfortunate. At the association, our government affairs committee has bandied about a couple of alternatives to that. One would be actually having provincial personnel at the border crossing points involved in collection activities.

One of the other items that we have discussed briefly, and I think it came out at that meeting in Niagara Falls on 23 April convened by the Retail Council of Canada as well, was the possibility of simply having Revenue Canada share its duties and excise documentation with the Ministry of Revenue so that the Ministry of Revenue could then go after the person in question who is bringing in product or has ordered product from the United States. These are all hypothetical possibilities that we admittedly have not really examined in any great depth, but clearly there seem to be alternatives, although I think the harmonization alternative would be the cleanest and most efficient.

Mr Brown: Just picking up on that and forgetting about cross-border shopping for a moment, I have heard some retailers speak about harmonization, that it would make a cleaner operation at the cash register no matter where you are.

Mrs Hancock: It would be at the cash register as well, definitely.

Mr Brown: I am just trying to solicit your opinion. Would you agree with that?

Mr Johns: Absolutely.

Mrs Hancock: Yes.

Mr Brown: Fine, thank you.

Mrs Y. O'Neill: I certainly feel you have brought another kind of perspective. With all the building codes and regulations—and we heard about this earlier this week in Kingston—I am wondering how you feel about what is happening with the environmental policies, those that are energy-saving. Have those changed some of the products that you supply and has that helped your business?

Mrs Hancock: Are you talking about products coming in that do not meet the Ontario Building Code?

Mrs Y. O'Neill: No, I am actually talking about the kinds of things you are selling. Are there new products that are helping your business because there are environmental concerns, or are you finding that you are importing things that do not meet the standards?

Mrs Hancock: That is an issue.

Mrs Y. O'Neill: Would you speak to that, please?

Mrs Hancock: There is an issue of product coming into Canada that does not meet the building code standards—insulation, steel doors and so on—that the federal government is aware of but is not doing anything about at this time.

Mr Carr: I want to thank you for your presentation. It was very helpful and informative and you were fairly detailed in your presentation, which I like to see.

I just want to see if you could expand a little bit. I know you did that during your presentation, but in your recommendation 1 about being competitive, there are various areas, whether it be taxes, regulation, even things like getting skilled workers, which can affect our competitiveness. I was wondering if you could expand a little bit on the real key areas that we could act on as a provincial Legislature to help make it more competitive.

1130

Mr Johns: I think I understand what you are driving at. The feedback we are hearing from a lot of our members is that it is not only the taxation issue but the regulatory burden. I think Mrs Hancock pointed out some of the legislation that has imposed costs on businesses, and small business in particular. That tide perhaps has to be stemmed.

Furthermore, and maybe this is picking up a bit on Mrs O'Neill's question, there are certain things that are imposed upon Canadian manufacturers, not only standards requirements but labelling requirements, that again necessarily drive up the costs of product. It goes on and on. We have noticed that there are a number of products being brought up from the United States that clearly do not comply with certain standards and labelling requirements, bilingual labelling and some of our environment-related packaging requirements. Nevertheless, these products are being brought up and, quite frankly, being sold at the retail level. That is another bone of contention that we did not really get into here.

Mrs Hancock: We are not here to represent our supplier members, but they have some major problems. Canadian manufacturers are having great difficulty with the US product that is coming in here that does not meet our standards but is being sold here; for example, insulation or steel doors. Our retailers are selling that product. The federal government is allowing it to come in. We have alerted the federal government to these issues. In some cases, if a building inspector sees the products, they are taken wholesale out of the buildings. That is a whole other issue.

They are much more reasonable to purchase. Actually, some of our members are US companies. What we are finding is that US manufacturers are coming into this country, joining us and selling products here.

Ms Harrington: I represent Niagara Falls. I hope you had a very good meeting in Niagara Falls, without going across the border to shop, of course. I understand it was a good meeting and I was hoping to be there. Unfortunately, I had to be up here that Monday morning.

You gave a very clear presentation here stating exactly where you are coming from and you offered what I feel are some helpful solutions from your point of view. Certainly the third one, the consumer awareness and education program, is something I believe we have to move on while looking at these others as well.

I am with the Ministry of Housing, and I just want to say that we must work with you to make sure the standards are met and that we move in the direction of environmental concerns for our housing.

Mrs Hancock: Exactly.

Ms Harrington: I had one question. On page 6 you discussed that in border cities certain commodities are cheaper. How could that be?

Mrs Hancock: They have to reduce their prices to compete with the US product.

Ms Harrington: But does it help in any way?

Mrs Hancock: It helps, but the retailer is taking such a loss that he is not making any money. He can make the sale; he just will not make his margins, his profit.

Mr Mammoliti: This is the same question I wanted to ask earlier.

The Chair: George, we are on overtime.

Mr Mammoliti: I want to apologize first of all, for walking in halfway through your submission. I am going to read through it, but I am a little concerned. Earlier we heard that we should not be finger-pointing at other levels of government, and for the most part that is true. But I feel compelled to finger-point. All I am hearing is that most of the responsibility lies with the federal government when we talk about this topic and this problem. I agree it does, and I see your point.

You may have touched on this in your report, and I am sorry if you have, but my question to you concerns free trade and how it affects our business, and how people may get the two confused somewhat and blame cross-border shopping, when in essence a lot of the problem comes from free trade, as you touched upon earlier, Americans being allowed to come in and do their thing in our country.

Perhaps you can answer that question. How does free trade affect you, and does it have a significant impact?

Mrs Hancock: Of course it does, particularly in the lumber. You know the lumber issue and the surtax that has been put on our lumber. That is still on, I believe. It is a penalty that we paid for free trade. I think it is up until 1996, then gradually the tariffs come off, and eventually there will be no difference between the US and Canadian.

Mr Johns: Further to that, I think the free trade issue has obviously encouraged US manufacturers and, for that matter, retailers to try to tap into the Canadian market, and in our case, the Ontario one. Clearly our manufacturers and our dealers have the same opportunity to go Stateside except that, again, it is extremely difficult to be price-competitive, given other extraneous factors such as those we have touched on. I think we can go toe to toe with the United States in terms of our quality of service, our quality of product, but currently it is very difficult to compete in terms of pricing, which I think is ultimately most important to the consumer. So to that end, in this issue one can draw a relationship with free trade. I really think they are two distinct issues, by and large.

The Chair: Thank you, Mrs Hancock, Mr Johns, for your presentation before our committee.

ORGANIZATION

The Chair: I would ask all committee members to remain, as we have a couple of items of business that we should look after. I understand that all members have before them a copy of the 1991-92 budget. This will take us to 31 March of next year. I want you to note that we have suggested that for this coming summer and the winter break after Christmas, between those two sessions when the Legislature is not sitting, we have allocated about eight weeks' worth of committee time. I think that should be sufficient. If we run into difficulty with that, then sometime late next fall or early winter we will have to review the work of the committee.

Basically, all the other items are things that are a matter of course. We have very little leeway. The only other point I want to draw members' attention to is the travel and the potential for public hearings in Ottawa, Windsor, Thunder Bay, Sudbury and other locations in Ontario as required. Other than the number of weeks and where we are going to hold these hearings, as I said earlier, the budget is pretty well fixed.

Mrs Y. O'Neill: Mr Chairman, I move the adoption of the budget. I would like to make one small statement in addition to that and have clarification perhaps from yourself or the clerk.

Regarding the eight weeks; we have a very major piece of legislation before us. If another piece of legislation comes before us, will we automatically get an extension? The majority of these eight weeks will no doubt be taken up in hearings on the major piece of legislation, plus its clause-by-clause consideration.

1140

The Chair: Maybe I could partially answer that by saying that last evening I received a call from the Liberal

whip, who suggested that some discussions had already taken place with the appropriate party officials and that four weeks were going to be set aside this summer for hearings into the new rent control legislation that is going to be referred to our committee. If memory serves me correctly, the whip suggested—I do not know whether he was telling me or suggesting to me—the weeks of 29 July, 6 August, 12 August and 26 August as the time set aside for hearings for that particular piece of legislation.

He also suggested the week of 16 September was available if it was necessary. I do not think at this point it will be necessary to have that week of the 16th and I would like to save it for the winter session if I can get concurrence from the committee members. But if need be, if 1 December rolls around and the committee sees that we are going to need more than the eight weeks, then we will certainly make a supplementary proposal to the Board of Internal Economy. If we use up four weeks of summer and we hold four weeks for the winter, even if we have to go back to the board, I do not think we will go back for more than one or two weeks anyway. It is matter of one week more.

Mr Drainville: I just want to indicate also, if we could do without a week in September, I would certainly be in favour of that, seeing as we will be sitting all through August.

The second thing is, I would like to second the motion that Mrs O'Neill has put forward.

The Chair: Okay. All in favour?
Agreed to.

The Chair: The budget has been carried as proposed.

Okay, the schedule: We have had a short discussion on it in regard to the discussion we just completed with the budget. I refer again to the weeks that were suggested: 29 July, 6 August, 12 August, 26 August. I do not know whether that is firm or how much leeway we are going to have in changing those dates. Do the committee members feel that we can work with those particular dates that have been suggested to us?

Mr Drainville: Every time I hear about the House leaders' meetings, they are changing all the time as to what the score is, so it is going to be very difficult for us to get a firm reading until maybe next week.

Mrs Y. O'Neill: I took part in the whips' meeting that this result is likely coming from. I feel that this will be the last week for any latitude. Their decision will likely be made next Thursday, so if we have any input, it should be today. They will be meeting at the same time we are next Thursday morning.

Mr Drainville: I heard the last week of July was back on the table again.

Mrs Y. O'Neill: It is on the table, yes, very much so.

The Chair: That is the week of 29 July, which I spoke to.

Mrs Y. O'Neill: Right.

Mr Duignan: Further to what Mr Drainville was saying, possibly we could leave this in the hands of the subcommittee to report back to the full committee.

Mrs Y. O'Neill: It would be helpful to know what people prefer.

The Chair: Does anybody feel there is a problem with any one of these major weeks?

Mr Drainville: No.

The Chair: Okay.

Mr Brown: Which weeks were they again?

The Chair: They were 29 July, 6 August, 12 August and 26 August.

Mr Brown: The week of the 19th is the week in August that we would not be sitting.

The Chair: Exactly. Perfect?

Mr Brown: Well, it is not perfect.

Mr Duignan: I have a personal problem with 29 July. That is not the committee's problem, however.

Mr Brown: I thought it was the week of the 12th.

The Chair: Well, we are allowed substitutions. If members run into difficulties in their ridings for important events or family occasions, we will have to carry on.

Mr Duignan: Otherwise, it really fits my schedule.

Mrs Y. O'Neill: So these are basically hearing weeks. Is that the understanding?

The Chair: We can have part of the work done here in Toronto, as we have in the past, and then set aside certain amounts of time to travel the province.

Mrs Y. O'Neill: These are for hearings.

The Chair: These are for hearings, yes.

Mr Drainville: When would clause-by-clause be under such a plan?

The Chair: The clause-by-clause could take place the week of 16 September, which I understood some members did not want to have happen, or could start when the Legislature convenes. I do not know when else we could do it.

Mr Drainville: Why do we not allow the subcommittee to discuss that, because obviously I do not think it would be helpful to discuss it right now, not knowing what the firm plan is by the House leaders.

The Chair: Okay. It was brought to my attention that the committee also wanted to talk about the days of the week we would be having hearings. I suggest we go back to the original schedule that committees used at one time, and that was Tuesdays, Wednesdays and Thursdays. I would like some discussion on that.

Mr Abel: I think that is an excellent idea. If you remember back, it was really quite tiring when we were going five days a week. It will also give us an opportunity to work our constituencies on the Monday and the Friday. So yes, I support the Tuesday, Wednesday and Thursday.

Mrs Y. O'Neill: I have a lot of difficulty with that, simply because in the last set of hearings—and you know I brought this forward several times—there were more people turned away than were received.

The Chair: I understand that.

Mrs Y. O'Neill: This is permanent legislation; the last was interim legislation. I do not like working five or four days a week any more than the last person, but either we

are going to have to extend the days or we are going to have a very angry public.

The Chair: That was going to be my suggestion.

Mrs Y. O'Neill: The other thing is we will definitely have to travel on the Mondays, I would think, where we are going to travel. I do not think we can expect to take half a day on a Tuesday and then start hearings at 1 or 2 o'clock in some other city. It is just not realistic to cover. This province has nine million people; every one of them has a house or an apartment and is interested in this subject.

The Chair: I think your points are well taken. What is the committee's view then of having extended days?

Mr Duignan: The suggestion by Mr Abel was that Monday would be basically a travelling day, with hearings starting at 9 am on Tuesday morning.

Mr Abel: I guess I was not quite clear. I was thinking we would have Monday mornings to be able to do what we have to do in the constituency, but certainly Mondays would be a time to get there, and sit for a full day on Tuesday.

Mr Duignan: Basically Tuesday, Wednesday and Thursday are full hearing days, Monday and Friday travelling, especially if we are travelling outside Toronto, getting back to our own ridings.

Mr Abel: We really do not know how many presenters there are going to be right now either. There may be the odd night we may have to sit.

Mr Duignan: Or we may have to extend it. Maybe we can be flexible on that and view that at the time.

The Chair: I think we should be prepared to sit evenings, a couple of hours every evening.

Mr Abel: Yes. We do not have a problem with that.

The Chair: Mrs O'Neill, what do you think?

Mrs Y. O'Neill: I definitely want to have this bill as well discussed as possible. I know it has high interest. We still have, as I am sure our clerk knows, a lot of people who were not heard the last time who will no doubt, as soon as the ad goes out, try to be first in this time. I just leave that with you. I tend to feel that we have an obligation on a major piece of legislation.

Mr Brown: I have a little difficulty in discussing this in what I consider to be somewhat of a vacuum, just because we do not have the information. We do not have any real idea, although we could guess, of how many presenters will be in front of this committee, or wish to be.

I think it is our obligation to accommodate as many as sensibly can be done, given that we do not know, first, how many there might be, second, where they might be, and third, exactly what obligations will be put on us in terms of whether the government wants clause-by-clause during this period of the bill as it comes down to us. I do not know; I do not think it does.

I think we want four weeks. What I understand now is that we have four weeks of public hearings and the week of 16 September is maybe for clause-by-clause or whatever is kind of talked about. I just think we are in a vacuum. I think at this point we should have the subcommittee talk

about what is the best possible result. I would be most pleased with Tuesday, Wednesday and Thursday. Being a northern member, I am going to spend most of Monday travelling anyway. Generally what happens is, if we sit Monday, I come Sunday. It is a six-day week for me, is what I am saying. That does not leave you a lot of time in the constituency.

1150

Mr Duignan: I think that is a good idea too. Let's leave it at that point and let the subcommittee examine it as more information becomes available.

The Chair: We have another item too.

Mrs Y. O'Neill: I am sorry, I have to leave to get ready for a meeting of the subcommittee.

The Chair: No problem. Mr Drainville?

Mr Drainville: Very simply, I am willing to agree with Mr Brown as well in terms of letting the subcommittee deal with this. I would like to say that it is always good to have some understanding of where we are coming from in the committee before the subcommittee. In terms of that, the Tuesday, Wednesday, Thursday idea is one that appeals to me in the summer months, added to it that the first order of increasing time would be the evenings of those three days; the next one—I believe we did this last time—would be the addition of a Monday, if that is ever necessary, and then the very last possibility is of course the addition of Friday, but to see that as the means by which we expand, depending on how many deputations are made and what demands are made on us as a committee.

The Chair: I think that was outlined fairly clearly. Exactly; we will increase the evenings and we will go to Monday afternoons, and then if we need more, the committee will discuss it.

Mr Brown: Along that line, just so that everyone is clear, I think it is incumbent on all caucuses to meet, discuss this with their members and keep everybody informed so that the subcommittee meeting will actually be the meeting that decides what is going on.

The Chair: The last item. Unfortunately, Mr Turnbull is not here, but Mr Carr is.

Clerk of the Committee: No, we want to leave that for the subcommittee.

The Chair: Well, I want to bring it up now anyway—I cannot bring it up now.

The researcher has some questions about the timing of the cross-border report.

Mr Rampersad: Yes. As far as I am aware, the House will be sitting for another couple of weeks, and I assume the committee will want the final version of its report two Thursdays from today, on the last Thursday of this month. Consequently, I would like to know, first of all, whether the committee would like summaries of the various presentations, that is, the major issues raised plus recommendations, and when it would like a draft of the report, as well as a final report.

The other point is I would like to know the kinds of issues the committee would like to have in the draft of its report. One thing I should point out is that in the presentations so

far we have not had a particularly good sort of overall view of what the issue is. We have had various people come and sort of talk about their particular turf and we have not had a good overall issue. I would like to know whether I should go ahead and write what I know about generally or whether I should merely stick to the presentations that were provided by the presenters who have presented so far.

Mr Duignan: I am just wondering. There has been another committee of the Legislature looking at this particular issue and I think it has formed a report at this point. It may be useful if each member of this committee had a copy of that report to see what issues have surfaced at those particular hearings. It may help guide this committee.

Mr Rampersad: That committee is at the moment considering its draft report. Two of the parties have actually presented recommendations. This morning I believe it was going to be trying to provide a final report, or at least come to some kind of agreement on a final report. In fact, that draft report of the standing committee on finance and economic affairs is fairly substantial and it has looked at the issue in great detail. It has analysed the issue. It has

heard from a awful lot of presenters who have actually presented very detailed briefs.

Mr Duignan: I happened to sit in on one of those days and I understand the report is nearly complete, except one of the political parties had not presented its recommendations at the time. Hopefully that was done this morning. I think it will be a useful guide for this committee.

The Chair: I think you should start with the summaries anyway.

Mr Rampersad: Okay.

Mr Drainville: This was Mrs O'Neill's standing order 123 matter, was it not?

The Chair: Yes.

Mr Drainville: I was just concerned that she have appropriate input at this point, because she would have some vested interest in this.

The Chair: Maybe the clerk can call Mrs O'Neill. That is all for this morning. We will reconvene at 4 o'clock this afternoon.

The committee recessed at 1156.

AFTERNOON SITTING

The committee resumed at 1606 in room 151.

The Chair: Members will recall that we adjourned shortly after 12 noon today to proceed to the Legislature for other business. We are reconvening this afternoon to hear from the Retail Council of Canada.

RETAIL COUNCIL OF CANADA

The Chair: I would like to call Peter Woolford to address the committee. We have allocated 40 minutes and that includes time for your presentation and/or questions. We would ask you to introduce yourself and state the position you hold within the council.

Mr Woolford: My name is Peter Woolford. I am vice-president of the Retail Council of Canada. First of all, let me bring the apologies of our president, Mr McKichan, who could not be here this afternoon. This is probably the most important issue for the retail community, but he is off this afternoon in Ottawa worrying about the environment, which is another matter of great concern to our members.

The Chair: He is not cross-border shopping, is he?

Mr Woolford: No. It is a slightly different issue, but of almost equal concern to both our members and their customers.

The retail council is a trade association representing about 6,000 retailers from coast to coast. By our estimate, 65% to 70% of the retail sales in Canada are made by members of our organization. I would suspect that in Ontario, because of the concentration of the retail trade in this province, we account for a rather higher percentage. We cover all aspects of the trade, both grocery and general merchandise, large stores, medium-sized, small, independents, franchises and corporate stores. While the large corporate chains, of course, account for the bulk of the sales, the great majority of our members are in fact independent stores with perhaps one or two outlets.

I would like to go briefly through the dimensions of the problem, some thoughts about the features that lie behind it—the nature of the problem, if you will—and then talk a little bit about what we feel can be done.

The retail council has not spent a lot of time or effort, in fact very little, in trying to put a handle on the dimensions of the problem as such. Based on the comments that we get from our members, from the various studies done by different organizations, we would not argue with the kinds of numbers coming out of the Ontario government itself which suggest that in this province we are losing sales in the order of slightly over \$2 billion a year. As I say, we have not done any specific research ourselves, but that certainly seems to be in the ballpark. It is a difficult number to get hold of and we feel that once there is a consensus there is a problem, it is much more useful to start focusing on what to do rather than trying to measure it in ever-increasingly fine dimensions.

I note that the most recent data for the first quarter of 1991 are now out; they show that the trend is continuing. The number of visits Canadians made across the border went up by about 22% in the first quarter of this year. I

think in March alone they went up by about 25%. So Canadians, and Ontarians especially, still have a strong flavour for cross-border shopping.

Equally, I think the economic consequences of that are well known to any MPP who has ever been back to the main street in his or her town. I do not plan to expand on that here.

I think it is useful, though, to spend a couple of minutes on what we think is the nature of this problem. We believe there has been a substantial misunderstanding of the nature of the cross-border problem. It is the view of our association and indeed, I think, of probably the majority of our members that the cross-border shopping issue is not primarily a question of ineffective border control. That certainly is an issue and an important part of the cross-border shopping phenomenon, but it is not the primary problem, nor is it the primary place we will find solutions.

Even when we fix the border issue, we will still find we have very substantial questions that we must resolve as a province and as a country. Some of the factors influencing Canadians to go across the border we can correct or counteract and there are others which we cannot compensate for. In this latter category, I think of the fact that Canada is dark and cold for a lot of the year. We have large spaces that are devoid of population. Our population is strung out in a band 3,000 miles long and 100 miles thick. These natural disadvantages we have as a country add to the cost of doing business in Canada and they are handicaps we have to accept as part of our heritage and somehow work around them.

Second, we find from the business point of view that our consumer markets are in a state of flux. This is a condition which affects retailers both north and south, but because of the relatively smaller market we have in Canada, the dramatic changes in consumer behaviour, in expectations and in their buying habits have a relatively more severe impact on the Canadian business community.

To the extent that the business community in Canada has weaknesses, the pressure of the competition, of course, is felt that much more severely and will highlight those weaknesses in the business community very quickly and very apparently. However, it also tends to be a self-correcting pressure because, as those weaknesses become clear and as the pressure builds on firms, they either adjust or they are not around to continue to be part of that problem.

With regard to domestic suppliers, the suppliers to our trade face the same impediments as we do. Indeed, they and we also face a handicap in that tariff levels in Canada are about twice those for products going into the United States, so our suppliers face the problem that the duty burden they bear in bringing goods across the border is about double that which their American competitors face.

Another disadvantage is the relatively heavy public sector burden—taxes and government—that we carry in Canada as compared to the United States. That is a feature of the kind of government Canadians have asked for and voted for over many years. Many of the burdens and policies that

we are carrying today are the result of public policy choices made many years ago. We understand that but we suggest there may be some scope for change there too. I will return to that in a few minutes.

We have seen some suggestions in the public press and in a variety of forums that a couple of high-profile measures might be the magic bullet that could solve this problem. One is that this is the fault of the free trade agreement and that if we had not signed free trade with the United States, we would not have this problem. I suggest that is a myth. In point of fact, the tariff concessions that were granted by Canada under the free trade act apply almost exclusively to firms doing business north-south. The average consumer going across the border cannot get a certificate of origin and so cannot take advantage of the tariff reductions that merchants or suppliers can take advantage of. As a result, if anything, the free trade deal has probably lowered prices to the retailer marginally rather than raising them.

On the other hand, I think the discussion about free trade certainly piqued people's interest in what was going on in the US market. They became aware that there were very attractive bargains to be had. By curiosity, they were drawn over there and found that indeed there are some.

The second magic bullet that is often suggested is a forced devaluation of the Canadian dollar. I suggest that would be a tragedy for this country. What that effectively means is impoverishing our people. We are an active trading nation. Many of the goods that we as consumers buy are imported. Devaluing the dollar means that our standard of living is driven down as an express government policy. I do not think that is an appropriate way to go. It means that many of the goods we buy, relative to those we would buy in the States, would become somewhat more expensive, whether they were bought across the border or imported. That would be a burden I do not feel public policy authorities would want to put on the individual consumer in difficult and tough times.

Let me talk a little bit about solutions and then we can get to the discussions. We started from a position about a year ago that the solutions would be achieved with more agreement and with more effectiveness if there were a dialogue among the various parties and we had better facts and consensus on some of the dimensions of the issue and the way to tackle it.

As a result of that, last October we had a meeting of federal, provincial and municipal governments, national and provincial trade associations, and local community groups and consumer representatives to review the issue, to see what might be done, jointly or separately, and what further research might be required on the issue.

We had a second meeting, two months ago, on 22 April, in Niagara Falls to review the work that had been done in the interim. We feel we have made some good progress. We heard at that meeting the results of a study done for the federal government, at our request, by Ernst and Young on cross-border shopping. If the committee has not seen that, you can get it from Ontario officials, either in the Ministry of Treasury and Economics or the Ministry of Industry, Trade and Technology. I am sorry I do not have one here this afternoon.

In addition to that study, which gave us a bit of a fix on how our structure is different in Canada and where the costs come in, we set up a number of committees that went away to do some work on specific aspects of the issue. First of all, we set up a committee of a number of associations and government representatives to steer the work of the whole group and give us a sense of strategic direction. We set up a group to review the accelerated customs lane experiment in BC, the so-called PACE experiment, Peace Arch Customs Entry. We set up a committee to look at communications options, at ways we can communicate effectively to Canadians, Ontarians and other provincial people what the burden of cross-border shopping means. Finally, we continued the work of a committee which is looking at further analytical tasks. The next meeting of this task force takes place on Monday 17 June and we are hopeful that we will get some good progress out of that meeting as well.

I should note that we have had excellent co-operation from the Ontario officials on this, officials from MITT, Peter Friedman and Rena Blatt, and from Treasury and Economics, Gary Rygus. They have been very helpful to us.

One of the pleasures we have had in this is that the officials from federal and provincial levels, and from municipal governments, have worked very co-operatively with the private sector on this exercise. Because we are all implicated—nobody owns this problem—we have found that this co-operative approach to the problem has been very fruitful.

Let me turn now to what to do specifically. There are certainly some constructive things that the private sector can do on a joint basis. Merchants and local groups in some communities have attempted to fight back through a variety of measures—public communication programs stressing the benefit of keeping economic activity in the community, special promotional events, comparative advertising, improvements in service and attempts to adopt, where possible, more aggressive pricing postures.

Some of these initiatives have been undertaken with the assistance of the Ministry of Industry, Trade and Technology. That ministry has provided advice and help, especially with respect to marketing. Last fall, they put together a nice marketing package for chambers of commerce, boards of trade or local business improvement areas, that has been very welcome and helpful. But obviously, while that is helpful, neither those initiatives nor the help are long-term solutions.

Another response of the private sector is in the form of accelerating improvements and getting even greater efficiency and competitiveness out of our operations. Again, that is just part of the normal pressure you get in response to the marketplace.

I would like to turn now to the side which perhaps is less used to dealing with pressures for change, and that is the public sector. We believe it is within the public sector that more can be done to help the problem than in other areas.

The first action is relatively simple and easy of achievement. We believe the federal and provincial governments should come to an agreement whereby federal customs inspectors collect not only the federal duty and goods and services tax, but also provincial sales taxes. Obviously, that would be much more practicable if provincial

sales taxes were harmonized with the goods and services tax. We have recommended harmonization to the Ontario government and all other provincial governments for a number of other reasons, but efficient collection at the border is another very powerful argument for doing that as quickly as possible.

We certainly welcome the action in Saskatchewan and Quebec to harmonize and collect at the border. We were encouraged by the very recent statements by Treasurer Laughren that he was considering some action in this area and we certainly hope that a positive response can come of that willingness to look at it.

The Chair: I think he has been denying those statements lately.

Mr Woolford: Oh, has he?

The Chair: I think so. I am not sure.

Mr Woolford: I am aware that certainly Ms Wark-Martyn was in Ottawa, talking with Mr Jelinek and making a number of proposals, so there is an interest in the Ontario government in trying to find a way of resolving this problem. We would certainly encourage that.

The Chair: I was just trying to be helpful to my colleagues.

1620

Mr Abel: Thanks. We appreciate that.

Mr Woolford: As well, we welcomed the announcement on Monday by Mr Jelinek of more effective and efficient measures to collect duty at the border, but again I would say that this is not a border problem.

If you would permit me a brief digression, I think the cross-border shopping issue is another tranche of the problem that the truckers face, that is, Canada, Ontario, we all face much tougher competitive pressures, much tougher market pressures than we have been used to in the past. The world has come to call in a way that perhaps it has not in previous years.

The private sector knows how to deal with that kind of challenge. They are for ever having to fend off new competitors, especially in retail. They have to deal with fickle consumers, new technology, new products, new ways of presenting their goods and so on, so they are used to responding to market changes.

We have arrived at a state in public economic policy where governments now are going to have to build that same ability to be flexible and responsive to new developments, to pressures coming from other competitive parts of the world, and we are working that through. As I say, the cross-border shopping, the problems that truckers face, the problems our manufacturers face, are all examples of that kind of broader pressure that is being brought on our economic actors.

However, retailers, like many of the other businesses, face a couple of particularly specific government-related issues that I would like to finish with. Essentially, the twin problems of relatively higher taxes and explicit or implicit costs from regulatory action tend to be of higher dimensions than those bearing on our US competitors. We believe the provincial government must start reappraising all

its existing and planned activities and programs affecting business, with a view to weighing their design and utility against the economic realities of this new set of conditions that we face.

We will certainly be making a case for this with the Fair Tax Commission, of course, but the mandate of that commission, we do not feel, is sufficiently wide to capture all the forms of costs that firms have to bear and on which they have to be competitive. We need to look at some of the other government programs already in place or now being contemplated which deal with the labour market, product markets, property markets and things like that. These bear on our suppliers, on retailers and on manufacturers generally, so what we are finding, I think, is that in a number of areas we have a series of built-in cost disadvantages which we are going to have to examine. Many of those were put there for good public policy reasons. We understand that, but we are going to have to look at those with a very clear set of eyes so that we are very clear about which costs we want to continue and which ones we can either manage downwards or eliminate in order to be able to continue to earn our livings.

We are not necessarily suggesting that any of the objectives of this legislation are undesirable or inappropriate; we are just going to have to take a very good, clear, hard look at them. We believe the government should be looking at these and deciding which are expensive add-ons that may be achieved in better ways and which ones are really key to ensuring the best quality of life for Ontarians. Some programs, we suggest, will not just represent a good bargain in terms of their side effects—competitiveness, jobs and so on—and we may have to make some fairly radical changes to them. We are very aware that this is a formidable and a challenging program for the government, as it is for the private sector. We believe, however, that the project is better attacked now, rather than two or three years from now, when we would be in a position of even greater weakness.

Those are my opening remarks. I look forward now to a discussion.

The Chair: Okay. We have lots of time.

Mr Brown: I certainly appreciate the presentation. I think you brought us some well-thought-out views. I was interested in your comments on the devaluation of the dollar as something that might be reasonable in terms of helping Canadians and Ontarians compete. You cannot see the devaluation of the dollar, obviously, by itself. It is connected to interest rates, which are still significantly higher in Ontario, in terms of the spread, than for our American friends. It is my view that if the interest rates were lowered, so would the dollar be slightly, and that would enhance our competitive position vis-à-vis other economies, not just the American economy, and also in the long term perhaps make the quality of life in this province better and help certainly with this particular issue. Your view is different and I am just interested in why that is.

Mr Woolford: I guess there are a couple of things to think of here. First of all, when as a country we owe half a trillion dollars, we do not get to choose our interest rate. The international capital markets are so interconnected and

so fluid now that we do not have the opportunity to set our own interest rate in isolation from those markets, and they will react very quickly if Canada's interest rate gets out of line with what they feel it should be. There is a very grave danger that we mistake how much capability we have to manage that interest rate. Certainly dropping it would bring the dollar down. The fear, of course, is that it will bring the dollar down in a rush and we will find ourselves either in an exchange crisis or in a very inflationary situation.

Certainly we would like to see Canada get to a situation where interest rates are substantially lower than they are now. Interest rates and the cost of borrowing money are very important issues for retailers, more perhaps than many people realize. Most retailers finance their inventory on revolving credit or on lines of credit, and that is a very expensive way of doing business. They also feel high rates, of course, because if the rates are high, their consumers are not in their stores spending for the larger purchases either.

The trick there is not simply to reduce the rate of interest arbitrarily but to get our economic house in order so that in fact Canada becomes such an attractive place, our public finances are in good shape and we can find that the world feels that Canada is such a safe place to put money that we can reduce the premium we now pay. Unfortunately, that means for governments that they are going to have to restrain their public expenditures.

Mr Brown: I am certainly not denying that. I was just interested in that we have been in the odd situation in Canada, in the last few months anyway, where the chartered banks have actually been leading the Bank of Canada with rate reductions, and I am just wondering if the Bank of Canada is not being unduly slow in reacting, but I guess that is another issue, really.

What I really wanted to ask—

Mr Woolford: Can I just finish that one off? I think the other side we need to think of here is the inflation side. Any of us who was at the age of majority or older in the 1970s knows what high inflation can do to our ability to earn a living in the world. For people on fixed incomes, seniors, low-income people, pensioners, people on welfare, inflation is a very destructive virus, and one of the ways of getting into it is through the good intentions of just letting the interest rate come down a little further so we can get some growth or so we can get some more things going in the economy. That raises all our imports in terms of their price and blows through the price structure very quickly. It is a dangerous thing to do.

Mr Brown: My only point on that was, I think we are a little slow.

The other thing is, if you look at Canada, or Ontario specifically, as one big retail store and Michigan as a big retail store, obviously that retailer across the border has some loss leaders that seem to be attracting customers. From our point of view they are loss leaders. Gasoline, for example, is a major lure which brings people over into the United States for one item really, but while they are there they might as well go out to dinner, they might as well pick up some milk, they might as well buy a turkey, etc.

What are your comments on that? What should we be doing, recognizing that even if Ontario totally eliminated its tax on gasoline, the price would still be higher?

Mr Woolford: That is a difficult choice. One of the reasons we have good roads, one of the reasons we have good policing services is that we pay for those through our taxes. I think one of the first things we need to do is make clear to Canadians that they enjoy a standard of living here, they enjoy a level of public services which is really excellent and in return they must be prepared to pay for it. They cannot live in this wonderful middle world they have now of being able to enjoy those services but slip across the border to avoid the pain of paying for it.

I think as well this is part of the whole painful business of looking at those costs that we have placed on certain key aspects that are so prominent in the daily purchases of Canadians. Gasoline is the classic case. You need to fill the tank once a week pretty well, and for somebody who is within a couple of minutes driving of the border, it just makes so much sense to cross. Tobacco and food products are the key ones.

I do not have solutions in the gasoline area. I think, for example, in the food product area we are using consumer prices to cross-subsidize the farmer, and what that means is that people are definitely able to avoid the pain of paying for that subsidy by going across the border. So that is perhaps one area we should be looking at, the structure of our policies.

1630

Mr Brown: This is a suggestion I heard in Sault Ste Marie the other day. It is interesting just because it is rather different and I had never heard it before. It was suggested that we put gas pumps at the border and you could not get out of Canada without a full tank.

Mr Woolford: In fact that is what they do, I am told, in Singapore. If you show up at the border with less than three quarters of a tank, you are actually fined \$500 Singapore right there on the spot. They just nail you. That is how they handle the price differential; I do not think Canadians would appreciate that.

Mr Brown: I do not think so either, but I thought it was an interesting suggestion.

The Chair: They have had several coups there recently I understand.

Mrs Y. O'Neill: Mr Woolford, I really wanted you to be here today and I am so glad you have accommodated us. I was in Niagara Falls with you on 22 April. I was very uplifted by the sense of co-operation you have relayed here among all the people there, whether they were people gathering data or consumers or people in various levels of merchandising.

I would like to ask you to be a little more specific about things you think the provincial government can do. I know you said you are coming to the tax commission, I know you have said you are going to make other interventions. The reason I really thought it was important, I know you appeared before the committee on finance and economic affairs, but a lot has been happening with your council since. You are certainly taking a very strong lead-

ership role and are basing your decisions on a lot of very up-to-date data.

Could you be a little more specific? I guess what I am asking you about, if I may lead you a bit, is the interest-free loans or loan guarantees or the breaks that municipalities give, these are the kinds of things that you are surveying and that others have brought forward to us as things that happen on the other side of the border to give what is not a level playing field. I just wonder if you could say very briefly what you think the province can do, the kinds of things we can look at. We want to bring some recommendations from this study.

Mr Woolford: I would be pleased to do so. Let me try talking, first, for the retail sector and perhaps for the wider group, because I think we have a bit of a sense in the Retail Council of Canada of what the wider group would like.

First, I do not think anybody is asking for additional subsidies, additional benefits for people opening new stores. Traditionally, this country has not subsidized the opening of stores or operations like that. I do not think that is appropriate government policy, least of all in the retail sector. I think most of my members would agree with that, even those who dream late at night that they might like it.

Second, over the long term that is probably not going to help you very much. If you get a bit of a grant to locate in one place or another, I do not think that makes a lot of difference over the long term. What do affect us are the ongoing policies of governments that place a cost burden all the time. Certainly every government everywhere has to place a cost burden because they need funds to operate, they need to establish the rules of the game, and complying with those imposes costs. Those are equally as true for the United States as for Canada.

Let me cover at least two areas that we at the Retail Council of Canada think could be areas for government action. Two of the most important areas of expense for the retailer are property costs and labour costs.

On the property side, the commercial concentration tax in Ontario has proven to be a very heavy burden for retailers. There is no question. That has just sucked additional money out of companies utterly in no relation to their ability to earn that money. It is an expensive burden. In many stores in downtown Toronto now, I am told by some of my members, the additional costs they pay for the property, the common area charges, the taxes and so on, are in excess of the rent their US competitors pay. That is a very heavy burden.

Second, in regard to the business and property assessment which has been working its way through Ontario, moving to market rate assessment, we have just completed some research with a series of consultants which shows that over about the last decade the commercial sector has been assessed relatively more heavily than the industrial or the residential sectors. Within the commercial sector it is the retail trade and the fast-food restaurants, interestingly, which have borne the highest increases in assessments. Those are two heavy burdens that the retailer then faces.

On the labour cost side, the employer health tax hit the trade very, very hard indeed. We are major employers of second- or third-incomers in households. As such, those

people usually had their OHIP premiums paid by the primary income earner. Either the husband or the wife was paying the OHIP premium. The other spouse who was working in a retail store part-time, students working their way through school, seniors who were working after retirement—these people did not pay premiums. The employer health tax put a heavy additional burden on firms; again, completely unrelated to their ability to pay, completely unrelated to their profitability.

Third, the current intention to raise the minimum wage from \$5.40 to as much as 60% of the average weekly wage will be extremely costly for the retail sector. The average minimum wage now in many states runs around \$5. At \$5.40 we are already over that. In some states it is down around \$3.50 or \$4. Many firms do not pay at that level in the States, but it sets a whole series of pay rates from that level on up. Many of our store managers, supervisors, department heads and so on set their salaries or their expectations in relation to the minimum wage. They expect to get minimum plus two or three bucks or twice as much as the minimum wage. When you raise the minimum wage, the impact blows right through the whole salary structure, up to and including wage rates of \$15 an hour, because they compare themselves to what the new entrants are earning. Major changes in that will be very destructive to the ability of the retail trade to compete.

Pay equity certainly has been a cost to many retailers who are major employers of women, as that has raised their wages.

Finally, the changes that are being noised about in terms of the Labour Relations Act will add to our costs, will add additional rigidities and perhaps drive up wage rates in a trade that has to earn its living in a very, very tough market.

That is a menu of items that we would identify as major aspects for consideration. We recognize that there are very substantial social implications of many of those changes, but we really have to think about those as a province because the reality is that if we do not find a way of solving those problems, those jobs will not exist. We are seeing that now. If you look at the food retail trade, many of the large firms have simply drawn back from border cities. They have closed their stores. Why? Because they just cannot compete. They cannot sell products in those cities, and so they are gone. The jobs are lost and those people are no longer employed in the retail trade.

Mrs Y. O'Neill: Thank you very much, Mr Woolford. I hope to see you Monday.

Mr Woolford: Talk to you then.

The Chair: Ms Harrington.

Ms Harrington: I will let Mr Duignan go first.

Mr Duignan: Loss-leaders are a good attraction for many people going to the United States to shop. Have you looked at the prices beyond the border cities in the United States and done a comparison between those cities and cities further inland, 60-odd miles inland?

Mr Woolford: We have not looked at them directly ourselves. I have heard that the northern-tier states are a dumping ground, if you will, for many US manufacturers,

porters and indeed for some of their retailers. Merchandise that is off-price—ends of lines, unusual sizes, slight defects, seconds, that sort of thing—often is put into that part of their country for sale. It may have started because that was the rust belt 10 years ago, and so people were looking for bargains more vigorously than ever; I do not know. It certainly has become an attractive place for Canadians to shop for that reason as well. So, yes, there seems to be some evidence that, unfortunately for Canada, US prices in the northern tier are ultracompetitive. That is a burden that we have to face.

Mr Duignan: I had an opportunity to visit the United States some weeks back, South Carolina. I drove down and drove back, and what struck me was the price difference between the border cities and those as you went further inland in the United States. In fact, depending on what state you were in, the gasoline price was up to \$1.60 a gallon. If you went into the ordinary grocery stores and looked at the prices—I did shopping at home so I would have a good idea of the price differential and there was little or none, in some cases, between what the item was in the United States and what it was here. I think the city of Cornwall in its presentation here this morning had a comparison between the United States and Canada and it found little or no difference. Would you speculate, then, that loss-leaders such as gasoline, etc., are in fact the major attraction going, and when they get there, people just buy extra commodities?

1640

Mr Woolford: There are a couple of things there, yes. Certainly the loss-leaders are very attractive for Canadians and draw them over. I think a second thing we find is that Canadians compare prices in a discount house—where there are 25 Ralph Lauren seconds on a table all jumbled together, with a slight pull in them or a smudge on the collar or something—with a brand-new, top-line quality Ralph Lauren sweater in Eaton's or Sears or the Bay in downtown Toronto. That is an unfair comparison. In one case you are buying a product at its very best from a store which provides service, quality, satisfaction, a range of sizes and so on, and in the other you take what you can get. There are no change rooms and so on. So it is an unfair comparison there as well. They are not exactly loss-leaders, but again it is an unfair price comparison.

We see as well that in some instances US standards are different. For example, I believe their standard for flammability of children's sleepwear is different, and many Canadians are not aware of that. I would prefer to have my children in sleepwear that is not easily flammable or that is self-extinguishing rather than sleepwear which is less safe. So some of those differences account for the price.

The US are also just superb marketers. They know how to pull the customer in, and if they have a loss-leader that is attractive, they use it. They use it very effectively to draw Canadians across the border, and then while they have us there they sell us the other products. What many of my members tell me, particularly those who are in the price-sensitive areas, is that their customers say, "Well, you know, I went across for a carton of cigarettes and to

fill the tank. The shirt was the same price or a little higher than in Canada, but I'd saved so much already that it was there, I was there, and I paid for it anyway."

Mr Duignan: It is like going into a supermarket that has loss leaders. You go in and you buy other goods that actually may be a little higher than where you would normally buy them.

Mr Woolford: That is part of retailing strategy, to encourage you to come into the store and to make many of your purchases there, not simply the sale prices.

The Chair: Can I be rude and interrupt to ask you if you believe that the thousands of people who leave Windsor and Essex county every day and every weekend and on Sundays to go shopping in all the border cities that border Detroit are actually going to pay more for their products?

Mr Woolford: Oh, no, not at all.

The Chair: Of course not.

Mr Woolford: Canadians are very smart shoppers. The very vigorous competition in Canada has trained Canadians to be very smart shoppers in terms of price and quality.

The Chair: I really would like to have the documentation that we received this morning from the Cornwall people examined more closely, not because I disbelieve it or because I think they made errors, but there has to be, for lack of a better word, something missing there. We cannot have that many thousands of people leaving the community that I represent on a regular basis just to go over there and pay more.

Mr Duignan: Mr Chairman, I do not want to get into a cross-debate here, however, I was in the United States and I went into the grocery store and I saw the prices on the shelves.

The Chair: I think we are trying to delude ourselves a little bit here this afternoon.

Mr Duignan: Sure, there were some items that were cheaper, the specials that were on that week, but the main grocery items in most cases were around the same price. However, no matter what we do in Canada here, when you compare the market, roughly 25 million people living in Canada versus 250 million in the United States, the United States is always going to have some sort of competitive edge simply because of the buying power of some of the stores involved, the discount stores. Is that correct?

Mr Woolford: Yes, and what helps to distinguish that in some areas, for example, is that we have set standards that are very slightly different from the United States, so that the suppliers, the importers or the manufacturers, can distinguish between those products going to Canada and those going to the United States. In the US, for example, you need a UL sticker on electrical products; in Canada it is the CSA sticker, so right at the plant they know which products are going to the world's most important market and they also know which products are going to the pimple on the north end of the world's most important market, and they can price differentially. The US is where they have to be competitive. They can afford to take slightly fatter margins

in Canada, or have been able to until now. That is perhaps an area that governments can look at as well.

Mr Duignan: There was some question in the standing committee on finance and economic affairs—I think you presented the same brief, did you?

Mr Woolford: Yes, we did. I am sorry; with only a week's notice, this was the best I could do.

Mr Duignan: That is okay. You indicated that you would have liked to do a study. Have you completed that study?

Mr Woolford: No. In fact, there will be some further study done as part of the task force on cross-border shopping, which is meeting on Monday. We had hoped that on Monday we would have a proposal back from a range of consultants on how they would get us some better fixes on where the cost differentials are. The time between the two meetings has been so short that we have not been able to get that work done. It will probably come to us this fall, but the hope is that we will get some co-operatively financed research into the problem, both government- and private-sector financed.

Mr Duignan: Very briefly, marketing boards: What is your opinion on, say, for example, the milk marketing board?

Mr Woolford: Every country in the world subsidizes its agriculture industry. It is a question of how you choose to do that. In Canada, we have chosen to do that through the consumer's pocketbook. In the United States, they have chosen to do it through the public purse. What it has created, then, is a wonderful opportunity for Canadians to avoid paying for that subsidy.

We are well aware of a number of studies that are going on in Ottawa and in provincial governments about how we should start changing that. I think we will see some changes in marketing boards. The associations representing the supply-managed commodities are starting to recognize that if their prices are wildly out of sync with those in the United States, they are going to lose more through lost sales than they would through reducing their prices. That is going to take some time, but we are hopeful that through a process of dialogue with them, we can arrive at a position where we can shrink that price differential without damaging their interests and without damaging the interests of the consumer.

Mr Duignan: One final question.

The Chair: There is lots of time; go ahead. The only time George is not here, we have lots of time.

Mr Duignan: I wanted to refer to the Europeans at this point and how aggressively they market tourism in their particular countries. I followed this idea, along with Don Cousens from the third party, at the time of the committee on finance and economic affairs; that is, attracting the Americans to come to Canada and how we get that tax rebate back to them. You know how aggressively the Europeans go after that now, an extremely aggressive campaign promoted within the store. If you go into a store in Europe and buy a particular article, you can go to the service desk and they will fill out a form for you which you put in an

envelope and deposit at your point of departure. In some cases now, there is an exchange desk at the point of departure where you get your money back. Would that be something worth while to pursue for this province, if not for all of Canada? We could get some sort of agreement with the federal government to promote it aggressively with the retail sector.

Mr Woolford: Indeed.

Mr Duignan: The retail sector in Europe is very involved in promoting that scheme.

Mr Woolford: Indeed. In fact, I am surprised that you are so supportive of the goods and services tax, because that is—

Mr Duignan: I am not supportive of the goods and services tax.

Mr Woolford: That is exactly what it does.

Mr Duignan: It is a fact of life here. You have the GST along with the PST. In fact, a selling point to visitors coming into certain European countries is that they can actually get a certain amount of money back that they paid at the retail level.

Mr Woolford: One of the many reasons we did support the GST, as the trade that has to collect it at the end, is exactly that reason. Today, indeed, consumers coming up from the United States can get their GST back on purchases. It has been a slow and difficult transition, we are aware of that, but right now many of my members have brochures and forms explaining how tourists can get back their GST at the border, right at the point of sale. Unfortunately, Revenue Canada has not gotten those forms out as quickly as it might have liked, but that is in fact possible.

Harmonization of provincial taxes with the goods and services tax will enhance that. It would mean that the consumer coming from the United States would pay 15% less than he is initially charged. I know now that the consumer returning to the United States has to stop at the border and make that rebate at that point. Down the road, it would make a lot of sense to see if we could do that—well, I guess you cannot do it right at the point of sale, because then that person simply could turn the goods over to a friend in Canada, so you probably have to make the rebate at the border or mail it to a location in the United States. But yes, indeed, one of the great attractions of a goods and services type of tax is that you can relieve the tourist of that burden.

1650

Mr Duignan: In fact, it would be worth while doing an aggressive campaign.

Mr Woolford: Yes. We have advised all our members, particularly those who are in the tourist trade, to get hold of those brochures and display them prominently at cash registers where tourists shop. We are starting to see those come out in the stores. As I say, we are only five or six months into the process now, but we are quite hopeful that those will prove to be a selling point for Canadian retailers.

Mr Duignan: At the point of sale, does the store then write out the necessary form, fill out the information?

Mr Woolford: We are advising our members that this is called good customer service. If you are trying to close

the sale on a fine Canadian coat, a Canadian piece of fashion merchandise or a pair of Canadian shoes, whatever, it is a great advantage to say to the customer: "Look, you have to pay 7% GST right now, but we have the form right here. We'll help you fill it out. All you do is hand it in at the border as you're going back and you get your money back." We think it can be used as a very attractive way of closing the sale.

Mr Duignan: It can be used as quite an effective tool for getting Americans to come to Canada more.

Mr Woolford: Yes.

Ms Harrington: Where is your meeting on Monday?

Mr Woolford: It is at the Airport Hilton International hotel in Mississauga, starting at 10 o'clock. It will run from 10 until about 2:30. If there are committee members who would like to attend, or if you would like to send one of your staff, you are more than welcome. We had somebody from the staff of the standing committee on finance and economic affairs at the one in Niagara Falls, if I am not mistaken. You are more than welcome. Certainly officials will be there as well from MITT and the Ministry of Treasury and Economics, and probably the Ministry of Agriculture and Food.

Ms Harrington: I represent Niagara Falls. I have been talking to our visitor and convention bureau about trying to help tourists particularly get the rebate back and to try and make them feel special.

Mr Woolford: Certainly, if there is any town that knows about tourism, it has to be Niagara Falls.

Ms Harrington: I really think you have given a good view of what the public sector can do and where you see some of the problems. You also talked about the things the retailers themselves can do. One of the things I think you mentioned is communications, which I would interpret as being marketing, getting the message across in various ways, not just your message of "My goods are superior or worth buying," but also the big picture of why we should in fact think of this as a country and have integrity in our border. Are there any other particular things I could note down today that you think retailers can do?

Mr Woolford: Let me pick up on the communications point, because I think that is one of the things the private sector can do beyond its own, if you will, narrow interest that is difficult for the public sector to do. Typically, when governments have operated Shop Canada campaigns and so on, they have been less than fully successful because Canadians view communications from governments with some scepticism. We believe there is enormous power in local merchants saying to their fellow citizens, their neighbours: "You need to shop here because if your son or daughter wants to come and work in my store, he or she will get a job only if I am still open. We need to support our community, we need to build a sound economic base here and we cannot be taking our dollar south of the border."

There are some very creative things being done in that regard. Apparently the road from Thunder Bay down to Duluth has billboards at intervals. One says, "Have you thought about taking your dollars out of Canada?" the next

one says, "Stop, it's not too late to turn around," and things like this. Clever communications like that make people think twice before they go.

The Sarnia Lambton Chamber of Commerce has put together a one-page brief for its sales staff with some thoughtful responses to consumers who challenge them on why they should shop in Canada. There are some very positive things that can be done there.

Just on the straight marketing, downtown merchants need to recognize that the enemy is not the mall on the outskirts. The enemy is across the lake or across the border or across the river. They need to start making more common cause. I have heard of US retailers lining up with hotels and putting together packages, "Stay in our hotel and get a 10% discount on everything you buy and a free shopping bag." Why can we not be doing certain things like that in small communities? I know some of them are doing that, the kind of effort that Cornwall did at Christmas where banks were providing attractive loan rates to people who were going to buy in local stores. There are a lot of creative things the private sector can do to communicate the reality of the economic challenge that Canada faces and also to present their goods and services in a very attractive way.

The challenge, of course, is that we are up against probably the world's best marketers. That is tough competition, but Canadian retailers and their suppliers, Canadian hospitality providers, are pretty sharp business operators too. I think that in response to that we will see a lot more creativity, a lot more clever ideas. What else? Special events and loss leaders of their own. We may not be able to compete across the land, but again, do some market research, find out what products are key in the consumer's mind and get very aggressive on those prices, working out co-operative deals with your suppliers and co-operative advertising. There is a whole range of things that retailers do. Those all tend to be things we have done before, things the private sector knows how to do.

The Chair: We are going to have to wrap it up, Mr Woolford.

Mr Woolford: I am sorry. I think they will come in the natural course of events. They may not be dramatic, but there are things that I think we can see the private sector contributing to.

Ms Harrington: We look forward to working with you, because people do not want government telling them what to do.

Mr Woolford: Our pleasure.

The Chair: Peter, thank you very much for joining us today. We appreciate your brief.

Mrs Y. O'Neill: I am sorry. We all got our committee meeting notices today. I would just ask for special consideration from the committee regarding the meeting next Thursday afternoon. On 20 June, the 10 ridings in the Ottawa-Carleton area have an annual fund-raiser. Since each of us is responsible for a certain number of guests and a certain number of our other colleagues coming to Ottawa, I really do feel I have to be in Ottawa for 5:30 next Thursday night. We have no one scheduled at the moment

for 4 o'clock—I checked with the clerk today—so I would really appreciate it if we did not meet next Thursday afternoon and just met in the morning. Can we go for that?

The Chair: I do not think that is a problem. That sounds very good.

Mrs Y. O'Neill: We will work towards completing this the following week then.

The Chair: Certainly.

Mrs Y. O'Neill: Thank you very much. I appreciate that.

The Chair: Thank you all for your co-operation. We will see you in a few days. Have a nice weekend.

The committee adjourned at 1658.

CONTENTS

Thursday 13 June 1991

Cross-border shopping . . . . .	.G-933
City of Cornwall . . . . .	.G-933
Canadian Shoe Retailers' Association . . . . .	.G-936
Claine Vacher . . . . .	.G-939
Lumber and Building Materials Association of Ontario . . . . .	.G-941
Organization . . . . .	.G-944
Afternoon sitting . . . . .	.G-948
Retail Council of Canada . . . . .	.G-948
Adjournment . . . . .	.G-956

STANDING COMMITTEE ON GENERAL GOVERNMENT

Chair: Mancini, Remo (Essex South L)
Vice-Chair: Brown, Michael A. (Algoma-Manitoulin L)
 Abel, Donald (Wentworth North NDP)
 Bisson, Gilles (Cochrane South NDP)
 Drainville, Dennis (Victoria-Haliburton NDP)
 Duignan, Noel (Halton North NDP)
 Harrington, Margaret H. (Niagara Falls NDP)
 Mammoliti, George (Yorkview NDP)
 Murdoch, Bill (Grey PC)
 O'Neill, Yvonne (Ottawa Rideau L)
 Scott, Ian G. (St George-St. David L)
 Turnbull, David (York Mills PC)

Also taking part: Carr, Gary (Oakville South PC)

Clerk: Deller, Deborah

Staff: Rampersad, David, Research Officer, Legislative Research Service



G-23 1991

G-23 1991

ISSN 1180-5218

Legislative Assembly of Ontario

First Session, 35th Parliament

Official Report of Debates (Hansard)

Thursday 20 June 1991

Standing committee on
general government

Cross-border shopping

Assemblée législative de l'Ontario

Première session, 35^e législature

Journal des débats (Hansard)

Le jeudi 20 juin 1991

Comité permanent des
affaires gouvernementales

Magasinage outre-frontière



Chair: Remo Mancini
Clerk: Deborah Deller

Président : Remo Mancini
Greffier : Deborah Deller



Table of Contents

Table of Contents for proceedings reported in this issue appears at the back, together with a list of committee members and other members taking part.

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at (416) 325-7400.

Languages in Hansard

Hansard reports all debates in English or French as spoken by the participants. It does not translate remarks made in either language. Headings and tables of contents reflect language use.

Subscriptions

Subscription information may be obtained from: Sessional Subscription Service, Publications Ontario, Ministry of Government Services, 5th Floor, 880 Bay Street, Toronto, Ontario, M7A 1N8. Phone (416) 326-5310, 326-5311 or toll-free 1 (800) 668-9938.

Table des matières

La table des matières des séances rapportées dans ce numéro se trouve à l'arrière de ce fascicule, ainsi qu'une liste des membres du comité et des autres députés ayant participé.

Il existe un index cumulatif des numéros précédents. Les renseignements qu'il contient sont à votre disposition par téléphone auprès des employés de l'index du Journal des débats au (416) 325-7400.

Langues paraissant dans le Journal des débats

Le Journal des débats rapporte en anglais ou en français les débats, selon la langue utilisée par les participants. Les remarques faites en l'une ou l'autre langue ne sont pas traduites. La langue des en-têtes et de la table des matières reflète la langue utilisée.

Abonnements

Pour les abonnements, veuillez prendre contact avec le Service d'abonnement parlementaire, Publications Ontario, ministère des Services gouvernementaux, 5^e étage, 880, rue Bay, Toronto (Ontario) M7A 1N8. Par téléphone : (416) 326-5310, 326-5311 ou, sans frais : 1 (800) 668-9938.

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON GENERAL GOVERNMENT

Thursday 20 June 1991

The committee met at 1010 in room 151.

CROSS-BORDER SHOPPING

The Chair: I call the standing committee on general government to order. We are continuing our hearings with regard to cross-border shopping as approved by the committee under standing order 123, as proposed by Mrs O'Neill and the Liberal caucus.

BREWERS ASSOCIATION OF CANADA

The Chair: This morning before the committee we have the Brewers Association of Canada. Would the gentlemen at the table identify yourselves, whom you are representing and what position you hold. You have 40 minutes. Some of that 40 minutes will be used by the committee members for questions and answers at your and our convenience. I would like to turn the floor over to you. I remind the committee that we have seven hours and 17 minutes left for these hearings.

Mr Morrison: My name is Sandy Morrison. I am president of the Brewers Association of Canada, the national trade association for the brewing industry. I have with me at the other end of the table Jan Westcott, executive director of the Brewers of Ontario and Keith Lambert, senior vice-president, finance and administration, of Molson Breweries. He is here in his capacity as the chairman of our national taxation task force because of the implications of what we want to say to you today, and to bring his knowledge as an operational brewer to the committee.

We will each address you in different areas. I propose to open by describing the situation from a national standpoint.

Perhaps to give you a flavour of the association itself, membership includes, of course, Canada's two national brewing companies, four regional brewing companies and nine of Canada's leading microbrewers. Brewing facilities are located in nine of 10 provinces and the production of these 16 member companies of the BAC represents 98% of the beer produced in Canada.

The Brewers of Ontario, represented by Mr Westcott, represents brewers licensed to operate within the province of Ontario. The membership includes the 16 companies whose combined volumes account for over 98% of all beer produced within Ontario. A list of the member companies will be provided to you in a leave-behind at the end of our presentation.

Brewing has long played an important role in the Canadian economy. The brewing and marketing of beer in 1990 contributed \$10.6 billion to the Canadian economy or 1.6% of the gross domestic product. More than 17,000 people are employed directly by the industry and a further 66,000 in jobs related directly to the production, distribution and sale of beer. Governments across Canada collected some

\$2.7 billion in commodity tax revenues from the sale of beer. Brewing in Ontario contributes 38% to this total in jobs, government revenues and economic benefit.

Despite these large numbers and the size of the companies, Canadian brewers are really relatively small in global terms. Canada is the 11th largest producer of beer in the world. On the other hand, our neighbour to the south is the largest beer market in the world, accounting for almost one quarter of all beer produced on the globe. Each of the top three US brewers sells more beer than the entire Canadian market represents.

The size of the brewing industry is a function of its evolution, which has differed greatly from that in the United States. In Canada, provincial governments, which have of course exclusive jurisdiction over the marketing and distribution of the product, have adopted significantly different sociopolitical approaches to regulating the production and sale of beer in Canada. Governments have historically employed the industry in Canada as an instrument of regional economic employment and development policy, with provinces requiring brewers to provide facilities, jobs and local purchasing in exchange for access to local markets. Governments have also imposed non-competitive taxation policies relative to the United States to raise revenue for a variety of general revenue and social policy purposes in Canada.

Beer volumes in Canada have fallen for three consecutive years. They are likely to do so again in 1991. In no other era, to our knowledge, have there been two consecutive years of negative growth in the brewing industry. However, while these statistics point to a decline in domestic beer volumes, Canadians may not in fact be drinking less. Instead, it is our view they are shifting consumption to lower priced US imports, and a record number of them are purchasing beer south of the border and bringing it back into Canada. In both cases, the motivation is price driven.

A conservative estimate places national domestic beer volume losses to cross-border traffic at 3% of domestic sales. Last year, the 3% loss represented as much as \$250 million in consumer expenditures, \$76 million of which was in provincial tax revenues. On-premise licensees, mostly made up of small businesses such as restaurants and taverns, lost approximately \$87 million and the federal government lost \$26 million in federal taxes, depending on its ability to collect duties payable at the border.

At the brewer level, 3% of the market represents about 600,000 hectolitres, which translates into about \$48 million in incremental profit margins or 12% of the aggregate industry profit levels. Losses of this magnitude impact heavily on industry cash flow and consequently limit the potential for new capital spending for the industry.

Constraints on capital projects in turn have obviously negative economic consequences for other industries across the country who rely on the brewing industry and service the brewing industry, and especially in the provinces most severely hit by the industry's reduced cash flow.

Revenue Canada reports that last year 53 million single-day trips were made to the United States from across Canada and that for the past two years traffic has increased by 20% per year. A similar rate of growth in 1991 would result in as much as \$100 million more in consumer expenditure on beer alone being lost to cross-border traffic. The federal government has acknowledged the growth in traffic by recently opening, on an experimental basis of course, special express lanes at busy border points. There has also been some suggestion of increased collection activity.

For a quick snapshot of the situation here in Ontario, I would like to turn now to Jan Westcott, the executive director of the Brewers of Ontario to outline the situation here.

Mr Westcott: Ontario brewers are certainly being seriously impacted by the escalation of cross-border shopping. Over the last 12 months, for example, sales of Ontario beer in provincial border communities have declined with individual stores registering drops as high as 11.5%. Moreover, the cumulative effect is significant. Since 1988, when we believe this really began to happen, sales of Ontario beer in our 18 St Catharines and Niagara Falls area beer stores have fallen by over 25%, and over 13% in our 12 Windsor stores.

This really brings into question the ongoing viability of the current network of Brewers' Retail stores across the province and our cost of distribution, certainly in border towns and communities.

As publicity about cross-border shopping builds, and there is certainly lots of it, the impact is increasingly being felt by our stores or Brewers' Retail stores further and further away from the actual border.

What began, in our view, as a somewhat localized problem immediately adjacent to the border is now reaching into communities as much as 40 to 60 kilometres away from the border. Obviously, these trends are extremely damaging and if unchecked could, we think, negatively impact our sales in Ontario by as much as 3%.

Not only would this volume reduction harm the domestic brewing industry in a very significant way, which would lose something like \$35 million in revenues, it will also mean the government of Ontario will collect some \$20 million less than it is now in provincial beer taxes.

Mr Morrison: Now to turn to what the consequences and perhaps some of the analyses of the causes and impacts these statistics mean to the industry, I would like to introduce Keith Lambert in his capacity as chairman of our national taxation task force. Keith is also senior vice-president of financial administration for Molson.

Mr Lambert: Canadians are shopping for beer in the US simply to save money. There is a clear reason for the recent phenomenon in increasing cross-border beer purchases and that is the tax differentials between Canada and

the US; further, the enormous recent increases in provincial and federal taxation on beer.

In Canada, taxes and the provincial government mark-ups average about 53% of the retail price of beer, so more than half is in taxation. That is the third highest in the world. Ontario's tax content is 47% and that ranks fifth highest in the world. The problem is that the US is only a 19%, so you have an enormous difference, 47% versus 19%. So the wide differential in tax rates between provinces and the US, coupled with the easy access of a large portion of the Canadian population to US border communities, has encouraged the cross-border sale of beer.

1020

Some recent examples of exactly what it is worth to the consumer to shop south of the border is that in New York and Michigan we have prices in the discount beer segment at \$3.65, converted to Canadian dollars. That compares to \$6.60 in the Ontario Brewer's Retail stores. Canadian imports south of the border would be at \$4.80, so the fact is that we can still sell our product in the States more cheaply than we can in Canada because of taxation.

Another important issue that disadvantages us is the type of taxation applied, whether it is unit-based or ad valorem or percentage tax. In Canada and Ontario we adopt mainly the ad valorem or percentage tax, which creates competitive distortions on a global basis between suppliers and is inflationary. Ad valorem taxes are designed in such a way that a change at one level of taxation impacts and cascades to the other taxes and provincial markups. Application of the percentage tax to lower-priced US imports generates less revenue for the governments and this disadvantage would be eliminated and provincial revenues protected by application of a unit-based taxation rather than percentage.

To summarize, two changes would be of vital interest to the brewing industry: first, to adopt a unit-based taxation to replace the percentage and, second, to reduce the current tax levels. You will no doubt be asking what the Canadian industry is doing, what the Ontario industry is doing. The industry is in fact in the process of restructuring to improve international competitiveness. We have a briefing document for you analysing competition in the North American market and that will be made available at the end of the session. Much has already been done to reduce the competitiveness gap between Canadian and US brewers, but because of years of government regulation, more time for structural adjustment is required.

We recognize global competition is a reality and we are investing heavily to restructure to meet the challenge, but we want to compete in the meantime on a level playing field. In this regard, we would ask that governments realign tax policies, remove regulatory impediments to competitiveness and ensure Canadian brewers have a stable environment within which to prepare for competition. The dismantling of interprovincial barriers to shipment of beer and elimination of the monopoly two-price barley structure imposed by the Canadian wheat board are examples of such impediments and unlevel playing field. We estimate that this, along with some other adjustments, would save the industry between \$100 million and \$120 million in

costs. The brewery industry has supported all of these initiatives throughout the last few years.

To conclude, cross-border shopping is a visible consequence of uncompetitive pricing of Canadian versus US beer and the cause is principally government tax and regulatory policy. In the meantime, we are out of balance on taxes relative to the US and the single most effective way to reduce the immediate and escalating problem of cross-border traffic in beer is to reduce disproportionate tax differentials between Canada and the United States.

Mr Morrison: I think we are prepared to respond to questions from members of the committee.

The Chair: We have about 20 or 25 minutes left for questions. We will start the rotation with Mrs O'Neill.

Mrs Y. O'Neill: I am sure your handout will be of interest to us. You have come with some very specific requests. I would like you to say some more, because this area, about the regulatory policies that are very difficult for your industry, is certainly new to me and likely to many of us here at Queen's Park. If you could also talk to us about the interprovincial regulatory policies as well as the inter-country or international policies, it would be helpful.

Mr Morrison: One of the documents we do not have with us in quantity but will supply to the clerk and others as available is a submission we made to the technical committee set up under the intergovernmental agreement on beer marketing practices, a federal-provincial effort, on the dismantling of interprovincial barriers to trade, specifically in beer. This was presented to that committee on 6 June and it does go through specifically what the various regulatory impediments are.

Mrs Y. O'Neill: If you could kind of bring those to layman's terms and summarize them, as well as leave the document with us. This is a standing committee you are talking about?

Mr Morrison: No, this is a federal-provincial committee struck as a result of the entering into an agreement on beer marketing practices between six of the 10 provinces and the federal government. Four of the provinces have not yet signed the agreement but they have set up a technical committee to work on the reduction in these barriers to trade.

Mrs Y. O'Neill: Would you tell us the provinces that have not signed?

Mr Morrison: Yes. The ones that have not signed are Newfoundland, Nova Scotia, New Brunswick and Manitoba. Specifically what happened over a number of years was provinces required brewers to establish a presence in the province in order to market their beer on a competitive basis within the province.

It was a long-established policy in this country, and if you look at the economic contribution of the brewing industry to gross provincial products, in fact the policy has worked admirably. It meant there were bottling plants, corrugated cardboard industries supported right across the country, jobs related directly to consumption were created in each of the individual provinces, and that worked. I mean, there were no subsidies required to maintain this

manufacturing enterprise in the provinces until Canada had to meet GATT obligations and face international competition.

The Canadian brewing industry responded to the policies established by governments and created plants appropriate to provinces, be they the size of Newfoundland or Ontario or Saskatchewan, and operated within that narrow base. But south of the border you have operations such as Anheuser-Busch, Miller and Coors that produce in single facilities a sufficient amount of beer to service all of Canada. There are tremendous economies of scale when you can get plants up to that capacity, which Keith can talk to more specifically. So we are simply not competitive running as, not a cottage industry in Ontario, but certainly a very small industry in world scale in a number of provinces in Canada.

So the industry, going back, opposed participation in free trade negotiations with the United States on the basis that we did not have free trade in Canada. At that stage, back in 1984, 1985, 1986 when the negotiations were on, we said to both federal and provincial governments, "Are you in a position to say there will be free trade in Canada?" We got no assurances that that was possible and we said, "If we can't have free trade within Canada, it's impossible for us to become internationally competitive."

Subsequent to that, actions under the General Agreement on Tariffs and Trade, GATT, have in fact dictated to us as an industry and dictated to government that we must make those changes. We are now engaged in addressing those problems. But there is going to be a requirement for a long transition because of the infrastructure, the investments that are made, the need to generate capital to replace them and to really fundamentally restructure the Canadian industry. We cannot do it overnight.

1030

The barriers now, which the provinces are looking at—if there is a brewery with a plant in Ontario and in Quebec, right now technically you cannot ship product between the two provinces. It would on a transitional basis, for example, allow a brewery in initial stages to say, "Okay, if you have breweries in both provinces, you can produce all of one brand in Ontario, all of another in Quebec, and swap back and forth." That would improve efficiency, give more flexibility to companies operating. But we must go a lot further.

The regulatory impediments—what leaps to mind first of all is the malting barley monopoly. We have paid as much as 100% premium over world price for malting barley purchased from the wheat board. That is the largest single raw material ingredient for the industry. It has resulted in a cost to the industry, on average, in the neighbourhood of \$20 million to \$30 million. The consumer impact is significantly higher, because when you increase your input costs, then the taxes, which Keith mentioned are frequently ad valorem, increase. So your costs go up, the taxes go up, and you become less competitive.

That brings me back to one of our fundamental reasons—which is to say that unit-based taxation is fairer because it does not penalize domestic industries that, by nature of this country, cannot gain the economies of scale that some of our competitors south of the border can.

Keith, do you want to—

Mr Lambert: Just expand, yes. Really, there are three principal current impediments as a result of regulation. The interprovincial barriers—and while we are happy that 80% have now signed to abolish those interprovincial barriers, it is still not in effect, so we are still not able to take our production runs of some of the smaller brands, for example, and put them all into one brewery and then ship interprovincially. We are still making small, uneconomic runs in these various breweries.

An average size of one of the major brewers in the US, of which there are about four or five, would be 10 million hectolitres, which in itself could produce for half the Canadian market. We have several breweries that range in size from 250,000 hectolitres to—perhaps the largest one is 4 million. It has only just been built to that size, so we are a long way away from establishing those economic runs, and of course in the US there is no such restriction on where the beer can be produced and subsequently shipped. So that is absolutely vital. In a logical step, before we could enter into any sort of trade in beer between Canada and the United States, north-south trade, we logically have to have east-west trade; that has long been a position of ours. So we are happy that progress has been made, but in fact as of today we are still not able to ship effectively. So that would be the largest and major item.

Second, the malting barley premium would cost the industry some \$25 million of additional taxation in agricultural support. The problem with that is that no such premium is charged on US beer sold in Canada, and certainly through the cross-border mechanism there is no such additional levy. So we are at a clear, competitive disadvantage as a result of such policies.

On further regulatory streamlining, there is really a host of items, one of which, for example, would be advertising restrictions. Whereas US brewers can feed into the Canadian market without any check, we have various levels of advertising clearance prior to use in the media, so there are a number of these items.

Mrs Y. O'Neill: Thank you very much. That has been very helpful. One question, very briefly. You said there is a loss of taxes and that you have been in a decline in sales in the last three years. Do you have any figures about what that means in taxation for the province, any round figures of the loss of revenue because you have all these regulations, impediments or unprogressive tax policies?

Mr Morrison: Yes, it is in the document. We have quantified it.

Mrs Y. O'Neill: Could you give us a figure?

Mr Lambert: Last year, a 3% loss would represent Ontario provincial revenues. We have quantified \$76 million, you said. Is that the correct number?

Mr Morrison: Yes. That is national provincial revenues. About 38% would be Ontario.

Mr Lambert: Yes, 38% of \$76 million would be the impact to the province here, which is about the same impact to the entire brewing industry of about 600,000 hectolitres of beer. It is worth about \$48 million in incremental profits. As my colleague mentioned, that does have

an impact on our ability to—right now we should be spending that money to invest to become competitive, and we are being denied that profit in additional cash—

The Chair: Thank you very much. We have to move along. Sorry to interrupt.

Mr Turnbull: I am struck by the remarkable symmetry of the problems you are having compared with the whole world discussion at the moment as a result of GATT. You are struggling with tax problems and regulatory problems, and I was drawing out of what you were saying the fact that you believe you can be competitive and you want to compete on a world market. You are saying at the moment you are shackled by taxes and regulations from becoming competitive. Is that a correct assumption I am drawing?

Mr Lambert: I think it is quite accurate. We have been attending groups like this to deal with these issues. Particularly with the federal government we were successful in having a modification to the inequality of excise application, where we paid, in fact, daily excise and the US imports paid at point of sale. We are attempting to deal with these structural, regulatory matters. We think we have gone through major restructuring already in one of the brewers—a second brewer has now embarked upon the same—with the intention of reducing the cost gap between Canadian and US manufacturers.

Mr Morrison: I think there is a recognition, though, that head to head it is not likely that the Canadian industry will be able to become directly competitive, mainly because we have the large American breweries operating at 17 million to 20 million hectolitres. That is one brewery that would serve all of Canada. We do have some advantages, we think, in a superior product; we are close and in the market, which gives you some advantages; marketing skills we think are directly competitive; our companies, not only the large ones but smaller ones, have carved out niches in the US. We cannot take on the deep-discount cheap US beer head to head in the United States, but we do think we can develop markets in the US for what we think is a superior product.

In fact, while we are facing the tests of GATT, we have also challenged the United States, and we have a GATT panel going because, notwithstanding their constant assertion that Canada discriminates against them, there are plenty of regulatory and legislative and taxation blocks against Canadian breweries competing on the level playing field in the United States. We are saying not only do we have to move towards getting our house in order, but the United States has to face and recognize that they are going to have to face that test as well.

Mr Turnbull: Your problems are not unlike the German brewing industry at the moment, although they have much bigger problems because of the size of their production facilities, and they have managed to exclude people from their market for so long.

If one were to address the question of getting rid of the ad valorem way of taxing and go to unit value, what sort of level of taxation would you need? Could you live with the

present level of taxation if it were simply converted to a unit value?

Mr Westcott: I think the best answer to that is that right now what happens on our various package sizes if you take like product and like quantity, six-pack to six-pack, or two-four to two-four, is that we are paying a significant premium, based on our higher costs. If you look at the direct comparison between, let's say, six-packs, which are a popular size, we pay a premium of 50% over the amount of net tax generated by a typical American product. I will not speculate as to whether, if the government considers unit tax, it would bring the level of taxation down. Certainly that would be our goal and that would be our hope. The fact is that if they collected exactly the same amount of tax but made it more equal among all products, there would be less of a burden on us than there is today, and that is quite significant.

Mr Morrison: It would appear from our statistics and numbers—and I do not think we are the only industry; there are certain industries that appear to be the magnets, if you will, for the cross-border shopping—gasoline, tobacco and alcohol are lead items. It is my personal opinion, and I will leave it at that, that while Canadians for a good number of years sustained a level of differential tax, they are signalling pretty clearly now that the substantial changes in the tax relationship that have occurred—I mean, our taxes on beer in the last six years have gone up 222%—they have said that is no longer a differential they are prepared to sustain; they are going to seek other options.

It is a constant battle. We would love to have 19% tax against the Americans' 19%, that is obvious, but that probably is not necessary to solve this particular problem; it is getting the balance between what people are prepared to pay, because there is a recognition of the higher level of services they get in this country, and the current level, where the signals are pretty clear from the consumer it is too high. So there has to be some kind of adjustment, and it is critical to people in your shoes to make the judgement of where that point is and arrive at it. But yes, I think it has to come down.

Mr Mammoliti: I notice on the list, Mr Chairman, that we have representatives from the Wine Council of Ontario, we have representatives from the tobacco manufacturers and the distillers as well. You will be happy to know that I am a beer drinker. I do not smoke and I do not drink wine and I do not drink anything else.

The Chair: We have significant wine producers in my constituency. They will not be happy to hear that.

Mr Mammoliti: Is that a point of order?

The Chair: No, it is just a point.

Mr Mammoliti: I believe you touched on the federal government implementing express lanes recently at some of the borders. Do you think that will help? Do you not think it will make things worse? Do you not think it is an incentive for people to actually go to the United States and buy more beer when they know they are going to get back a lot quicker, they do not have to wait in a line?

Mr Morrison: Our representation to Revenue Canada was that what this country does not need is the kind of border congestion to deter American visitors coming to this country to spend money to support our tourism industries, and if we needed express lanes, it was our view that they would be better invested in getting Americans willing to spend money in this country into the country rather than blocking Canadians or being trapped with a whole bunch of Canadians in the long queues, which has to be a deterrent to getting Americans to visit Canada.

Our view on the whole enforcement question is clearly that Canadian laws should be respected and enforced. The federal government should be doing what is necessary to collect the duties that are properly payable. At the same time, I think even the East Germans demonstrated that you cannot maintain concrete walls and machine-gun nests.

Now that we have free trade, there is an expectation that there should be a fair amount of mobility, and the volumes are such that I think it gets back to this question of balance again. Enforcement is part of it, but as long as you have this kind of tremendous tax spread on key commodities, I do not think you are going to turn it off.

Mr Mammoliti: My personal opinion is that it is an incentive.

My second question—and we just do not have the time—is in regard to a comment I believe Mr Westcott made, and that is the drop of 11% at stores in the border cities and whether that 11% would have anything to do with the recession and the fact that people just cannot afford to buy a case of beer any more. If so, how much of that 11%, if not all of it, has to do with the recession?

Mr Westcott: As my colleague has pointed out, we have seen in the past three years a decline in sales overall. If you compare the performance in some specific border communities—Niagara Falls, St Catharines, Windsor—it is running two, three or four times the decline in the rest of the province. As you track farther away from the border, the decline is much less significant, so I think it is very clear. We are not seeing pockets of decline in other parts of the province. It is in those specific communities—Sault Ste Marie, Kingston and The Islands, those kinds of places. That is where we are seeing it and it is running in those kinds of percentages, whereas in most of the rest of the province it is 1%, 2%, 3%.

Mr Mammoliti: So if I went to my local beer store and asked if there has been a drop, would they say no?

Mr Westcott: They would say no.

Ms Harrington: I appreciate your comment that a certain differential between the prices of the US and Canadian products is or has been historically acceptable to the people of Ontario, and once that differential is skewed, that is where we run into the difficulties. What the public will tolerate is certainly something that we, as well as our federal people, have to come to realize.

I have two questions. First of all, you discussed and described how you had met with other government people to tell them of the situation and what you think is a remedy; for instance, unit-based taxation. Do you have any

feeling that it is going to be successful, that your message is getting across?

Mr Lambert: It is difficult to say on the matter of unit taxation. We have been talking about that for some years and we have not been successful in making a change to that. We have been successful in dealing with the excise issue, when we had an enormous increase in the excise rate, in the order of 50% at 1 January. We were successful there and we are now starting to work on the malt spread, so those are two examples where we are moving quite rapidly.

Ms Harrington: Okay. We as politicians, of course, cannot always deal with all the details of an industry, as you probably realize, so we certainly hope that your dealings face to face with our officials are productive and reasonable, and we would hope that would proceed. If not, we need to know.

If you could, explain in a little more detail why the Canadian product that is produced right here can be sold cheaper in the United States.

Mr Lambert: It is because of the taxation.

Ms Harrington: Yes, I know that much. So when it is exported, the Canadian tax is not paid.

Mr Lambert: The Canadian taxes are withdrawn at point of export. It is simply tax exempt on shipment to the United States.

Mr Morrison: No Canadian taxes are collected on product that we export.

Mr Lambert: So then you pay US taxes—

Ms Harrington: The 19%.

Mr Lambert: —which are at a much lower rate.

Ms Harrington: Is there any way that, when it is exported, taxes could be collected?

Mr Westcott: They can, but that then makes our products in those export markets uncompetitive, and our taxes are largely consumption-oriented, I guess, with the exception of federal excise.

Mr Morrison: Roughly 10% of the Canadian production is sold in the United States. If we priced ourselves out of the US market, that would be a further loss of Canadian production of 10% and would be crippling. What we need to do is build on our success in the United States, where there is some real potential for growth, so we would be terribly concerned at anything that eroded our competitiveness in the foreign markets.

1050

Mr Lambert: That would be very much counter to our objective in the current, what we call critical, transition period of international competitiveness. We are striving to build our volumes in the United States, and to apply a taxation that would not be applied to any other imported product in the beer segment would be counter to our objectives, very much so.

Ms Harrington: Okay. I thought taxes were paid before the point of sale, but it is at the point of sale.

Mr Lambert: In Canada, for domestic sales, they are levied before the point of sale.

The Chair: I would like to thank the members of the delegation for meeting with the committee this morning and for the information they have provided and for being so helpful.

WINE COUNCIL OF ONTARIO

The Chair: Next on our agenda is the Wine Council of Ontario. We are going to follow the same procedure this morning. We would ask the representatives of the wine council to please identify themselves and any positions they hold. The committee has allocated 30 minutes for your presentation, and that includes questions and answers from the committee members. I would like to turn the floor over to you.

Mr Diston: Thank you, Mr Chairman. I am David Diston, representing the Wine Council of Ontario this morning. I am also employed by Brights Wines in Niagara Falls. With me is Ramona Marlin who is an employee of the Wine Council of Ontario and has the title of project manager.

Ms Harrington: On a point of privilege, I would like to welcome David Diston, who is a very important constituent of mine. He is also president of the hospital board and a past president of the chamber of commerce. Thank you for coming.

Mr Diston: Thank you. The Wine Council of Ontario is composed of 19 wineries, representing in excess of 99% of the total licensed wine production in Ontario. The industry as a whole is responsible for annual sales of \$143 million of bottled wine through the Liquor Control Board of Ontario or through the wineries' own retail operations, for a total of 33 million litres of wine.

The wineries are also significant employers. In 1989 Ontario winery operations, the wine production activity utilized 800 full-time workers, whose wages, salaries and benefits totalled \$27.9 million. Additionally, Ontario winery retail operations employed 560 people, whose wages, salaries and benefits totalled \$11.1 million.

Wine production contributes considerably to jobs outside the wineries, with the purchase of goods and services by the wineries directly creating a further 640 jobs among suppliers delivering the wineries' requirements. As well, another 400 jobs are created in the province because of the additional economic activity required to provide the goods and services that we purchase from the input suppliers.

Thus, the wine sector directly and indirectly supports 2,400 jobs in Ontario: 800 in the winery production, 560 in retail stores, 640 jobs in direct winery suppliers and 400 jobs indirectly.

Ontario wineries purchase over \$12 million of Ontario-grown grapes each year—that is in excess of 25,000 tons of grapes—and support 18,000 acres of vineyards and 673 grape growers in Ontario.

In terms of cross-border shopping, Andy Brandt, the chairman of the Liquor Control Board of Ontario, which is the key retailer of our products here in Ontario, provided some interesting figures related to cross-border shopping in his presentation to the standing committee on finance and economic affairs on 25 April 1991. He indicated that while sales of beverage alcohol had been flat and/or declining in

this province for a number of reasons, accelerating declines are being witnessed in border communities.

For instance, in the Niagara region sales through LCBO stores had been increasing at a 4.5% compounded rate over the last five years. However, in 1990-91 sales have declined by 5% in the liquor stores. In the Windsor-Sarnia region, while growth trends over the last five years were similar, the decline in 1990-91 has been approximately 7% in the liquor stores. Mr Brandt suggested that should this trend continue there will be continued erosion in sales in these border communities, which should be of serious concern.

The wineries of Ontario also operate their own winery retail stores in Ontario, approximately 250 in number, over 70 of which are operated as kiosks inside grocery stores. Our own preliminary statistics indicate that in this past year winery retail stores in border communities performed approximately 4% below our other winery stores, while the sales for stores within or adjacent to grocery stores, the mini-stores, declined by more than 16% in 1990-91. You will no doubt hear that the Brewers' Retail example is even more disturbing than what you have just heard. Everyone has heard and will continue to hear of the staggering statistics which further characterize the cross-border shopping situation.

According to Statistics Canada, during January and February 1991 the number of day trips by car to the USA increased by over 21% over the previous year. In February 1991, approximately 4 million Canadians crossed the border for day trips compared to 3.1 million the previous year.

The problem faced not only by our industry but by countless others is that numerous Ontario consumers are now becoming American consumers. These individuals are crossing the border to shop for certain key items: groceries, especially milk, dairy products and poultry; cigarettes; spirits, beer and wine; and gasoline, of course. All of the above continue to be less expensive in border states such as New York and Michigan.

For example, in Ontario a one-litre bottle of Ontario blended wine sells for approximately \$6.75. In New York state, a comparable bottle of blended table wine averages US\$3.99 or C\$4.56, about two thirds of the Ontario price. In Ontario floor or non-discriminatory reference pricing does not allow wines to be sold at extremely low prices. In New York State, wine is available for sale at as low as US\$2.99 for a four-litre container. We get these things delivered to our houses in Niagara Falls, Ontario, and the advertisements this week are not quite so bad. There is lots of wine at US\$2.99 a bottle and four litres is US\$6.99 this week, so it is not a good week to go shopping across the river for wine.

1100

While wine may not be the key draw for consumers who are shopping in the United States, it is no doubt being purchased incidentally, due to the low prices available. This then contributes to opportunity losses to Ontario wineries as our products are not widely available for sale in the US. Our higher input and production costs, coupled with the private and sometimes proprietary distribution

system in most US states, does not allow this level playing field to materialize.

The \$6.75 price for a one-litre bottle of Ontario wine at an LCBO store is made up as follows: the winery price is \$2.28; the federal excise tax is 51 cents; the LCBO markup is \$1.09; the LCBO flat tax is \$1.50; there is a thing called a levy, which is 24 cents; there is a thing that is a so-called environmental tax of 5 cents—I say "so-called" because it is not an environmental tax, it is just called an environmental tax and goes into general revenue—the federal GST takes 40 cents; and provincial sales tax is 68 cents, giving a total retail price of \$6.75. Based on our price, there are seven additional taxes added on. In simple terms, the price to a consumer of a bottle of Ontario wine is about three times the price received by the winery. Seven levels of taxation, in turn, provide the following: 91 cents to the federal government, \$3.55 to the provincial government and \$2.28 to the winery.

The Ontario wine industry is certainly aware that in many cases provincial revenues from the sales of wine, spirits and beer are used to support social, health and other assistance programs in our province, programs which the citizens have deemed to be important. However, there must be a level of understanding that as cross-border shopping continues, such revenues will decrease while the need for them, due to lost jobs, will most certainly escalate.

What can or should the provincial government do in Ontario? Suggestions as to what you as the province's government can do to address the cross-border shopping issue are probably numerous and varied, as you will hear today from many groups.

The Ontario wine industry would recommend that: (1) agreement be reached between the federal and provincial governments for the collection of provincial taxes at the border; (2) the provincial government lower the rate of taxation on wine in Ontario to make it more comparable to the border states in the United States; (3) the provincial government lower the rate of provincial sales tax on wine. As I am sure you are all aware, we pay a premium rate of sales tax on alcoholic products, so it is not the usual 7%.

The industry understands that the items just mentioned are not simple tasks and will not be immediate solutions to our problem. As such, the provincial government should look to other avenues where assistance to industries can provide some relief to the problem.

The Ontario wine industry, in a submission to the Legislature's standing committee on government agencies, outlined its concerns regarding the illegal importation, production and sale of wine in Ontario. Specifically, the Wine Council of Ontario has growing concerns over the illegal importation, production and sale of wine in Ontario. There are indications that sales of illegal wine may exceed the combined sales of our legally licensed wineries.

The sale of substantial quantities is often made through the special occasion permit option which allows for the use of so-called homemade wine in clubs, public halls and other approved premises. We have serious concerns regarding the care and attention being given these wines in the processing and storage stages. Our greatest concern from a sanitary standpoint is the method and conditions

under which these wines are being offered for sale to the public. In many cases this wine is packaged in used bottles, many of which carry the label of a legitimate licensed producer.

Illegal wine sales constitute a health hazard, as no testing is done to ensure the product meets federal health standards, or Ontario's LCBO standards, and to protect the public safety. With illegal sales equal to Ontario licensed wine production, the loss of revenue would equal almost \$150 million, \$117 million of which would accrue to Ontario and \$30 million to the federal government. You could get all that extra money and we could double our sales.

The serious nature of this problem requires the immediate action of the Ontario government and the government of Canada to ensure public safety, elimination of the loss of provincial and federal revenue and removal of unfair competition to licensed producers. This is an area, unlike cross-border shopping, fully within Ontario's jurisdiction.

The Wine Council of Ontario recommends repeal of the regulations that allow the serving of so-called homemade wine in public establishments, ensuring that existing laws and regulations governing the distribution and sale of all alcohol products are properly enforced and that the appropriate government authorities be instructed to take the necessary action to investigate and prosecute those persons found guilty of breaching the laws of the land.

We wish to stress that we have no objection to the production and use of legitimate homemade wine for personal consumption. Our concern is with illegal commercial production, importation and sale.

The Chair: Thank you. We have approximately 15 minutes for questions and we will try to divide that up evenly. Mr Turnbull was first on the list, but apparently he is not here. We will start with Mrs O'Neill.

Mrs Y. O'Neill: Could you say a little bit more about this? I did not realize how wide-scale this production for sale was. I thought it was an unusual circumstance. Is it centred in certain areas of the province or certain communities, whether they be ethnic communities or communities of people who gather for other purposes? Could you say a little bit more about the characteristics of the groups that are involved in this production which, I do agree with you, seems to be less than perfect.

Mr Diston: The large-scale production of homemade wine for regular use by families in their own houses is indeed, to a great extent, found among specific ethnic groups—the Portuguese, the Italians and many others. The development of what I call the commercial home winemaking business—that is, wine produced by unlicensed people and sold—appears to have started in the southwestern part of Ontario, between Hamilton and Windsor-Sarnia, but I believe it has spread fairly widely and fairly significantly since the rules were changed to permit the use of homemade wine legally.

Homemade wine has always, to some extent, been used for weddings and other celebrations, even in halls that should not have permitted it. The change in the regulations that allowed it to be done legally expanded that dramatically and now people, we believe, purchase

commercially made homemade wine in large quantities for wedding celebrations in particular, but many other celebrations.

Mrs Y. O'Neill: What year did that happen?

Mr Diston: I believe the rules were changed about five or seven years ago. I find as I get older I have to add a couple of years on to my estimates, but I believe it was five to seven years ago that it was permitted to bring in so-called homemade wine.

1110

Mrs Y. O'Neill: Thank you for making a strong recommendation. Could you tell us a little bit about this flat tax, and then your other tax, the premium rate tax? Could you be a little bit more specific about what those are?

Mr Diston: The liquor board markup used to be a single percentage tax that was applied equally to various categories of products, so there would be a tax markup rate for Ontario wine, one for imported wine, one for spirits and things of that nature. This was partly as a recognition that this produced extremely high taxation on premium wine products, more specifically but not exclusively imported products, the very expensive wines. The system was modified five to seven years ago to split it in two. The percentage tax was reduced and a flat tax of \$1.50 per litre was applied to all products. When this was initially done, it was a wash. I do not think the Ontario liquor board made any additional money from that change, but it did put what was felt to be at that time a more reasonable level of taxation on expensive products. That is where that second tax came from, and it has been sitting there at \$1.50 ever since it was introduced.

You asked me about another tax. I am sorry, I am not sure which one—

Mrs Y. O'Neill: You said that you pay a premium tax rather than the provincial tax.

Mr Diston: Yes, on the alcoholic beverages you do not pay the usual 7% provincial sales tax. We pay 10%—no, 12%. I do not have to pay for my wine; I get it free, so I do not know the rates. It is 12% provincial sales tax on wines.

Mr Sola: Before the change in the regulations, which you said happened about five to seven years ago, how much illegal wine was sold, or if not sold, served? Right now you are saying it is almost 50-50—that 50% goes legally and 50% goes illegally. Before the change in the regulation, what were the percentages of legal and illegal wine sold at functions?

Mr Diston: I do not know the answer to that, but I would guess that very little illegally produced wine was used in public halls. There may have been a quantity of homemade wine being sold for home consumption. It is very hard to get a feel for that. I first became aware of complaints in this area around 1981-82 when there was an increase in unemployment and the last recession was under way. That was when we first heard reports of this. It was two or three years after that, perhaps around 1985, when the rules were changed to legalize this illegal activity.

Mr Sola: Did your sales plummet all of a sudden? Is that how you noticed it? Or did demand for wine just increase?

Mr Diston: The first reports came to us from our salespeople, who would be trying to obtain business at banquet halls. There would be various functions going on, and we found that they were not buying their wine from us or from anyone else, but bringing in wine they had made themselves. At that time it probably was genuine homemade wine they were bringing in. As soon as it became legal, we believe an industry expanded or developed to do more commercialization of the illegal wine trade.

Mr Sola: I have one more question. You stress at the end that you have no objection to the production and use of legitimate homemade wines for personal consumption, and yet earlier you stated that you have concerns regarding the sanitary aspect for illegal commercial use. Do they take shortcuts in producing for the illegal market? Why would you be unconcerned about the health standards of the homemade winery for home consumption and concerned about the homemade winery for illegal sales?

Mr Diston: Homemade wine for personal consumption in your own house is a small-scale activity. The wine is consumed by and large by the families that make it, plus a relatively small number of family and friends who may be visiting their house. I do not believe there is the same exposure of what I will call the general public with a series of home winemakers doing this activity.

When it becomes a commercial activity in larger volumes, the wine is not consumed by the people who made it, who presumably are willing to accept whatever risk their own product gives them. It is consumed by what I will call innocent third parties who may be guests of the wedding or something of that nature and who have no way of telling whether the wine they are being offered is appropriate for consumption. Commercial wine is extensively checked both by the federal authorities and, very specifically, the quality staff at the Liquor Control Board of Ontario.

We are concerned that one of these days there will be some unfortunate happening that results from this unchecked, uninspected, illegally produced wine. We are additionally concerned—

The Chair: Thank you for the answer. I am going to have to move along.

Ms Harrington: I want to note that Brights is certainly very generous to our community for very many community functions.

It is quite a lineup you have there of the cost of the taxes to the consumer. I had not actually seen that before, and it is an eye-opener.

I was certainly surprised to see that what you call illegal wine is so widespread. You mention the figure of 50%, and you also noted in your brief that you have made a submission to the standing committee on general government about this. When did you do that?

Ms Marlin: In January 1991.

Ms Harrington: Okay, so nothing has come from that yet.

Ms Marlin: Not that we know of, no.

Ms Harrington: It would be through the Ministry of Consumer and Commercial Relations?

Mr Diston: Yes, or the police or anyone else. If we heard of a lot of charges being laid by the police, we would assume that something was being done about it. It would not necessarily require action by the minister to enforce the law. We believe the best way to do it is to go back to the situation we had before they expanded the use of homemade wine at public functions. That would require a change in the regulations that would be spearheaded by that ministry.

Ms Harrington: What you are asking for from the standing committee is not the regulation change?

Mr Diston: We would like the regulation changed, but we would also like the laws of Ontario to be enforced.

Ms Harrington: Okay. I hope we will be able to keep in touch on that.

Mr Diston: Thank you.

The Chair: We have about a minute left if anybody has a question.

Mr Mammoliti: I just wanted to say that even though I do not drink wine, I—

Interjections.

The Chair: This is not confession, George. How big is your export market?

1120

Mr Diston: Our export market is extremely small. Many of the wineries have a small export business and many of us are trying quite hard to expand it. It is difficult. We have cost pressures, we are in a high-cost environment here and it is not easy to develop an export business into the United States. When I came in, the brewers were pointing out to you some of the difficulties and the fact that Canada has had to ask for a GATT panel to look at some of these things. We are subjected to unfair taxation in the United States when we export wine into the States—

The Chair: What type of taxation is on a litre of wine when you send it over?

Mr Diston: The federal taxes in general and the customs duties are very similar in Canada and the United States. The state taxes vary massively depending which state we are talking about and which—

The Chair: Let me ask it this way: If you send a \$2 bottle of wine at cost over to Michigan or New York, before it can be put on the shelf for a retail markup, what would the duty and taxation be on it?

Mr Diston: The duty and the taxation would be about 50 cents, I believe. I am guessing at that, but it would be about 50 cents. The retail price in New York state or Michigan would be about \$4, compared to \$6-something here.

The Chair: I want to thank you very much for appearing before our committee and for your helpful information.

CANADIAN TOBACCO MANUFACTURERS' COUNCIL

The Chair: Next on the agenda is the Canadian Tobacco Manufacturers' Council. We would like to call them

forward. We are going to be following the same procedure as with our other presenters. Your organization has been allocated 30 minutes for your presentation and for questions from the committee members. For the record, I would ask you to identify yourselves and the position you hold.

Mr Kelen: Thank you, Mr Chairman and members of the committee. My name is Michael Kelen. I am the corporate secretary and the general counsel of the Canadian Tobacco Manufacturers' Council, sometimes known by its acronym, the CTMC. With me this morning is Jacques LaRivière, who is the vice-president of the CTMC.

First, if I may by introduction state that our association members constitute 99% of the manufacturing sector of the Canadian tobacco industry. The most recent estimates available indicate that Canadians spent some \$8.6 billion on tobacco products in calendar year 1990. That expenditure generated some 60,000 jobs, direct and indirect, and produced \$5.8 billion in tax revenue for the federal, provincial and territorial governments.

Ontario is, as many of you know, a very significant player in the Canadian tobacco industry. Not only does it represent almost 40% of the Canadian tobacco products marketplace; it is also where one finds almost half of the 60,000 jobs. One illustration of that is that there are 14,500 retailers of tobacco products in this province, with most of them being small family businesses. Also significant is the fact that Ontario produces 90% of the tobacco that is used in Canada for the manufacture of cigarettes, fine cut and other tobacco products. Last year, the government of Ontario collected more than \$1 billion from consumers of tobacco products. The federal government collected a similar amount.

The purpose in providing this background information is to introduce the more detailed subject of the impact of taxation on tobacco. Of course, one of those impacts is the subject of this hearing, the cross-border shopping phenomenon, and some would say crisis.

The average retail price of a pack of 25 cigarettes in Toronto 10 years ago was \$1.25. Today that same package costs the consumer about \$6.25, a \$5 increase. That is a 400% increase during a period when inflation grew by only 70%.

The reason? What happened? The short answer is tax increases. Over the past 10 years, the federal government has increased its taxes on cigarettes by 530%, from 37 cents to \$2.35. The last federal budget, in February, increased the tax by 75 cents a pack or \$6 a carton. The Ontario government has done virtually the same thing by increasing its tax load on cigarettes by more than 460%, from 30 cents 10 years ago to \$2.05, including the latest increase in the budget in April this year of 48 cents per pack or \$3.80 per carton.

What has happened to the cigarette marketplace during that period? From our perspective, a series of negatives, most of which I would suggest are equally negative and consequential for the government.

A quick comparison of the 1981 and 1990 numbers shows that our tobacco company member shipments of manufactured cigarettes declined by 31%. The drop in Ontario

during that period was 19.5%. Of the 8,500 jobs in the manufacturing sector in 1981, 4,000 have disappeared. Five years ago there were three cigarette manufacturing plants in Ontario. Today there is only one. There were 2,700 tobacco growers in Ontario 10 years ago. Today there are 1,200. If I am not mistaken, that also means the disappearance of about 15,000 seasonal jobs.

So the downward trend in cigarette shipments has not been without its effects in Ontario and the rest of the country in terms of jobs, and contrary to what some would have you believe, it has not been offset by growth in the export market.

The 1981 and 1990 Statscan numbers show in absolute terms a tripling, from half a billion to one billion and a half cigarettes in the export category. What the numbers do not show is the fact that in 1981 there were no land-based duty-free shops on the Canadian side of the Canada-US border and that the volume of Canadian cigarettes sold in duty-free shops on the US side of the border was very low. Last year, those two outlets alone handled almost 1.2 billion cigarettes.

I submit that this volume simply represents a transfer of domestic volume to a category listed by Statscan under the export designation. The net transfer was generated by consumers in Canada in search of a product at the best possible price, which gets us to the context in which one must view the cross-border shopping phenomenon.

I submit that it is price-driven and that the price is tax-driven. The primary—some would say exclusive—responsibility rests with government, as does the obligation to solve the problem.

That point was made very clearly, I thought, about three weeks ago in Winnipeg by the Minister of National Revenue, Mr Jelinek, when talking about the cross-border shopping problem. It was a front-page article in the *Globe and Mail* on 31 May 1991 where Mr Jelinek's comments were quoted. Mr Jelinek said, when talking about the cross-border shopping problem, "It's true, taxes on tobacco"—and he listed tobacco first—"booze and gasoline are the major culprit on those products, and these are going to have to be dealt with by all levels of government."

Really, that is our submission. Tobacco, booze and gasoline are the main drivers. Surveys will say that people are crossing to save some money on chicken or 25 or 50 cents on a quart of milk, but the big money you can save, \$20 to \$30, is on a carton of cigarettes and the big money is on filling up your gas tank, \$20, \$25. That is what gets the people to take the trouble to cross the border. While they are there they will buy a few other things, but it is gasoline and cigarettes, and to a lesser extent booze, because the level of taxation, for example, you heard from the brewers association, is very small compared to the level of taxation on tobacco products.

The price differential is phenomenal. The pack of cigarettes that costs \$6.25 in Toronto, you can buy that same Canadian brand in the United States for in the order of US\$2.25. When you do it on a per-carton basis, your saving is very significant and makes your trip well worth while.

1130

During the past few years, there has been a massive increase in the sale in Canada of tobacco products, especially manufactured cigarettes, on which no or little Canadian taxes have been paid. What we are saying is that, while the sales in Canada have declined, that does not necessarily mean Canadians are stopping smoking, and if you make the price so high, that is tantamount to prohibition. Prohibition did not stop Americans from drinking in the 1920s, it just made a couple of Canadian entrepreneurs very wealthy—I will not name any of them.

What we are saying is that there are a lot of cigarettes that have come into Canada that are not tax-paid, and it means the government of Ontario and the federal government and the other provincial governments are losing tax revenue.

The source of these cigarettes on which no taxes have been paid, the activities that have led to their entry into Canada, can be categorized in three different ways.

The first is that there is organized smuggling. Trans-border shopping is just part of the problem. There is a bigger problem, and that is with illegal Canadian cigarettes, and illegal American cigarettes being smuggled into Canada. The first part of the problem is organized smuggling into Canada, principally from the United States, of large volumes of non-tax-paid cigarettes which find their way into consumers' hands by various undercover means. While not limited to these routes, evidence shows that certain Indian reservations are major conduits for such traffic.

A recent study done by Peat Marwick Thorne suggests that organized smuggling now involves product with a black market value of \$500 million a year—this is tobacco; cigarettes—with a consequent loss of tax revenue to the federal and provincial governments of some \$370 million.

That is the organized smuggling. That is not the Canadian in Niagara Falls who crosses the border and picks up a carton of cigarettes and fills his tank. That is the organized smuggling where the cigarettes are coming across by tractor-trailer.

The second category in which the illegal cigarettes arrive in Canada is what might be described as more amateurish or entrepreneurial smuggling whereby individuals, using a variety of means, such as a special hiding place in their car, small aircraft, boats and the like, are bringing in smaller volumes, one or two cases, 10 to 12 cartons of cigarettes, into Canada on a regular basis and retailing them directly to friends through contacts in bars, etc. Current tax differentials between Canada and the United States make this a profitable enterprise, even if the cigarettes, Canadian or American brands, are purchased in the US on a fully-taxed basis.

May I remind you at this point that the tax load on a package of cigarettes in Ontario is about \$4.40 while the tax load on the same package in Michigan is less than 75 cents. It is about the same in New York state.

While it is impossible to estimate the volumes involved here, it is safe to say that this kind of activity is growing at an alarming rate and now involves millions of dollars in product and lost Canadian taxes.

Just as an aside, I think probably many of you will remember the recent series of articles in the *Toronto Star* where I think for six days running they had articles about cigarette smuggling. On one of those days they showed, for example, that fellow in the kayak who was crossing the Niagara River, I think it was. Something happened to his kayak and they discovered it was just full of cigarette cartons. There was another person who was speaking anonymously to the *Toronto Star* reporter who spoke about making a couple of thousand dollars a week just going down once or twice a week to bring back cigarettes in his car.

That is how you describe the second category of illegal cigarettes in Canada, and that is the entrepreneurs, the amateurs, who are doing the smuggling. Of course it is very small compared to the organized smuggling in the first component, where they estimate 10 to 12 million cartons are being smuggled into Canada. And again it is because of the taxes, the excessive taxes.

That brings me to the third component, and that is the transborder shopping by individual Canadians who regularly travel to the United States to purchase cigarettes and other goods for their personal or family consumption. The 20% increase in daily border crossings reported in April versus a year earlier is one indication of the growth of this activity.

While cross-border shopping involves a wide range of consumer purchases, it is generally accepted, including by Mr Jelinek, that cigarettes, along with other highly taxed items such as gasoline, beer and liquor, are the major traffic builders in providing the initial incentive to Canadian shoppers to take their consumer dollars south. Again, since a fraction of these purchases are declared for customs purposes, it is impossible to put a precise pricetag on this activity, but it is in the millions of dollars.

Neither smuggling nor cross-border shopping are new phenomena, but they have now reached a new scale, especially in respect to cigarettes. To find anything comparable, one has to go back to 1951.

This is very interesting. In 1951 there was what was considered to be a huge increase in the taxes on cigarettes at the federal level, and that was a 3-cent-a-pack increase. It caused such an increase in transborder shopping and smuggling that the government of the day rolled back the tax increase and did not touch the tax again for six years. Let's hope history repeats itself and the governments roll back the tax. I will come to what are the solutions, but I think that is the bottom line.

We and the manufacturers have participated with the RCMP and with all governments, including, as the chairman knows, the Ontario government, in developing a marking scheme. We have just tried everything we can to stem this problem, and it is without success. As long as there is this high-tax incentive to smuggle, whether it is organized smuggling, whether it is amateur smuggling or whether it is transborder shopping, it is going to continue.

On the transborder shopping issue, while it continues, consumers are going to be spending millions and millions of dollars—in fact it is billions of dollars—on other products

while they are there, but what drives them across? Gas and smokes mostly.

There is no question that what is driving the current level of activity is taxes, pure and simple. Throughout the 1980s, federal and provincial governments have steadily increased various taxes on tobacco products, to the point where they have made Canadian cigarettes among the most expensive in the world, and even more germane to the issue, two to three times more expensive than the same product that can be purchased, even with US taxes paid, in US border communities.

For those willing to engage in such activity, the smuggling and sale of cigarettes in Canada on which no or partial taxes have been paid offers the opportunity to make enormous illicit profits. Indeed, even with substantial built-in profit margins for the smugglers and their allies, these cigarettes can and are being sold to Canadian consumers for at least \$20 less a carton than the price of fully taxed Canadian brands at the retail level.

We are now talking about Canadians buying Canadian cigarettes from the US brought in illegally, but Canadians also, in times of recession, are looking for less expensive cigarettes and they can buy discount US brands for \$8.50. You compare that with the average price in Ontario of \$47 a carton. If somebody wants to smoke and they want inexpensive cigarettes, they can get them in New York state and Michigan for \$8.50. That is not the most extreme disparity. In New Brunswick the disparity is even worse. A carton of cigarettes in New Brunswick I think is now what, \$60?

Mr LaRivière: Easily.

1140

Mr Kelen: In fact, I think there are more Canadian brands being sold in Maine than there are in New Brunswick. This is the result of the high level of taxes. You reach a point where consumers are just going to say no, and it is tantamount to prohibition. Prohibition did not stop people from drinking, and high taxes are not going to stop Canadians smoking.

For Canadian cigarette smokers, who still number some 6 million—so of the 18 million voters in this country, 6 million are smokers—the economic bargain is too hard to resist, especially for those of limited economic means who simply cannot afford to buy tobacco products at their current, tax-laden prices. It is troublingly true that most of these consumers regard buying illegally marketed cigarettes as a kind of innocent or victimless activity. They seem almost happy to rob governments of their tax revenues. They appear relatively unaware of the loss of Canadian incomes and jobs that are the inevitable result.

The consequences: Rather than read the text on the consequences, I will just list some of the consequences because many of them are very serious.

The first one, of course, is that governments are losing millions and millions of dollars in tax revenues. If the Peat Marwick report on the amount of smuggled cigarettes by organized activities is correct, 10 million to 12 million cartons, we are looking at a loss of tax revenue to the provincial and federal governments of \$370 million.

Second is loss of jobs: Tobacco farms are losing jobs, manufacturers are losing jobs, retailers are losing jobs, wholesalers are losing jobs, entire communities along the Canada-US border are facing loss of jobs in the retail sector. Near where we live in Cornwall, the huge shopping centres are virtually empty and people are crossing the border. What are the main drivers? I will not repeat that.

The second consequence after lost government revenue, which in times of terrible government deficits is extremely important, is lost jobs, which in a recession is also extremely important.

The third consequence is that US brands are becoming more popular among Canadians because they are cheaper. They can also smuggle US brands if Canadian brands are not available, or they can buy discounted brands. That means there is going to be structural damage; it is not going to go away.

The fourth problem is that the heavy involvement of certain Indian reservations in this activity has distorted life in those communities and has created an economic dependency on smuggling that is difficult to break or replace. Last summer with the Oka crisis we saw the violence, and the source of revenue to buy those arms was clearly identified as related to smuggling. At that point we were able to get the government to focus more on this problem of smuggled cigarettes. Up to that point we were crying in the wilderness, but when they could relate it to what the Indians were doing with the revenue—and I am not saying generally, I am saying in certain cases—it became a problem they had to deal with. If you buy one tractor-trailer of cigarettes worth \$3 million in the States without taxes you can make \$2 million. That is the profit on one truck, which can cross one of the 48 border points in our part of the world that does not have any customs points. You can just cross these country roads. When I grew up, fishing south of Montreal, we used to cross the border many times after speckled trout and not know we had crossed. There are just so many places you can cross, and when you have that kind of profit per truckload, you can expect the next problem which has emerged: organized crime is getting involved. The tobacco industry is deeply concerned that the distribution and sale of this illegal product is being linked to organized crime.

The next problem is hijackings. If you have a truck with tobacco on it worth \$3 million, these trucks are getting hijacked at an alarming rate. As well, there is an increasing number of thefts, sometimes with violence, from retail outlets which sell cigarettes. People will go into the convenience store, take out 50 cartons and they have made themselves a lot of money. It is almost as profitable to deal with cigarettes as it is to deal with drugs now.

I guess the final problem is a disrespect for our country, its laws, taxes and for our system; the tax revolt that we see. When you see those lineups at the border, you are really looking at Canadians who are being driven across the border, who feel they can break Canadian laws—because many of them are—and do not seem to care any more. That is something we have always been proud of in Canada. When I did my income tax courses, we were told we had the highest voluntary tax compliance of any country

in the world; the most respectful citizens in the world in terms of complying with Canadian tax laws. That has been changed, and part of it is the excessive taxes on our client's products and a few other selected products.

The next section deals with the response of the industry. The Canadian tobacco manufacturers, for the last 18 months to two years, have continually tried to alert governments to the scale of cigarette smuggling and transborder shopping, the inherent costs and dangers, and to emphasize the manufacturers' readiness to co-operate with enforcement officials so the laws are enforced. Frankly, while customs and tax collection officials and law enforcement officers appear to share our concern, there is little evidence that tax policymakers understand that further raising tobacco taxes simply makes a serious and dangerous situation worse. With this latest round of federal, Ontario and other provincial tax increases, the problem is virtually out of control.

While we have been stressing to governments that enough is enough, put the lid on taxes because this is what is happening, the government has failed to understand and has exacerbated the problem. Now the price difference is so high that the problem is out of control and I guess that is the reason this standing committee is considering this problem. Hopefully governments will listen to this standing committee more than they have listened to the manufacturers.

We were talking about responses by the manufacturers. During the same period of the last two years, while the manufacturers have been dubious about the real effectiveness of such measures, the manufacturers have co-operated with the government in a series of programs to identify, through special markings or indicia, Canadian manufactured stock destined for various markets. The honourable Chairman is well aware of this. He was the minister responsible in the last government in Ontario for this product and the manufacturers worked closely with him and his department in marking all Ontario cigarettes. They now have a broad yellow marking which shows the Ontario tax has been paid. So it is fairly simple to identify product that has been smuggled in, say by organized crime or organized smuggling, and is being sold in convenience stores and other stores throughout Ontario, including Toronto.

However, it does not appear that marking program is being aggressively enforced. In fact, there are not very many positive results of it being enforced at all. In a series of Toronto Star articles, the reporter just dropped into three different stores not far from downtown Toronto—I think it was around Dundas. In all three stores, he was able to buy smuggled products for \$3 a pack, something like that.

1150

Interjection: Four.

Mr Kelen: Four dollars a pack. Of course, that smuggled product did not have the yellow marking on it indicating the Ontario tax had been paid.

The manufacturers have spent \$40 million so far on this marking program, which is a lot of money. We have developed a marking program for the Atlantic provinces and for the province of Quebec as well. As well as costing \$40 million, the manufacturers have had to reorganize all

their warehousing so that it is on a provincial basis as opposed to a national basis. So let's say you are making a run at your Ontario manufacturing plant of a brand you want to sell across Canada. You cannot just have the run go, you have to stop it after the Ontario product is finished, change the marking to do the Atlantic, stop it, change the marking to do the Quebec, stop it and change the marking for export, because we have a special marking for export. Economies of scale are not there.

That is basically what the manufacturers have done. We have been encouraging the government. I have been meeting with the RCMP on a regular basis to encourage them. The RCMP puts its hands up and says: "We've got the longest undefended border in the world and when you've got such a terrible tax differential and such a high incentive to smuggle, it's almost impossible for us to be at all the points. Even if we stood shoulder to shoulder along the border, little airplanes could just flip over." The profits are so great that you can easily afford to rent a plane to hop across the border with illegal cigarettes. Again, there is no solution except doing something about the high level of taxes.

That is the next heading, what can the government do.

The Chair: I want to remind the committee that our time is pretty well expired and I need unanimous consent of the committee to extend the time allotted to the presenters, and we do have another witness waiting.

Mr Mammoliti: What does that do for questions?

The Chair: We will have to allocate in our agreement a couple of minutes for questions for each party, but we need unanimous consent.

Mr Kelen: Mr Chairman, I can finish in 20 seconds, if I may.

The Chair: We still need consent for questions.

Mrs Y. O'Neill: Why do we not extend by between 5 and 10 minutes, Mr Chairman?

The Chair: Thank you, committee. Please proceed.

Mr Kelen: Thank you. The concluding part of the submission this morning is really what can governments do. The bottom line is, there is only one real solution. In our view, effective action must begin by facing up to the fundamental reality that the cause of the problem is excessive taxation. The only real solution is to reduce Canadian tobacco taxes to a level more comparable to those in the United States.

Also, please help the manufacturers help the governments understand that if they are going to insist on increasing the tax burden on these products and thus further widen the tax and price gap with the US, the problem will only continue to get worse.

In the case of tobacco products, bearing in mind that only about a third of adult Canadians smoke, hundreds of thousands have already told Ottawa the tax burden is unfair through a current process taking place. We hope Ontario, having more to lose than any other province in this regard, would set an example of fiscal realism that, I submit, might well be enlightened self-interest. Ontario consumers and taxpayers want fairness. Ontario agriculture,

manufacturing and commercial workers want to keep their jobs. If we could bring the taxes in Ontario on tobacco products back down, or at least not have any further increases, this would go some way towards accomplishing those objectives. Thank you, Mr Chairman, members of the committee.

Mr Duignan: In your presentation today you never once mentioned the health factor involved in smoking. In fact, judging by the reaction of the federal minister the day before yesterday, to get more people off smoking he would continue to increase taxes on cigarettes. Have you any comment to make on that?

Mr Kelen: Clearly Mr Bouchard does not share our views that the excessive taxation is causing problems as we have discussed today. He has continued to shoot himself in the foot by increasing taxes more, because that is what governments are doing. They say they are trying to tax this industry out of existence. That is basically what they did in the United States in the 1920s with prohibition, and the result was not what the government in the United States wanted. People did not stop drinking, and the same analogy is appropriate to what is happening with cigarettes right now.

Mr Mammoliti: Cigarettes are the first drug an addict is usually introduced to. I think it is important to mention that. I do not like cigarettes. I do not like inhaling other people's cigarettes, but I am concerned about the jobs and I know that there are a lot of jobs being lost. But you relate that to the tax system. Somewhere along the way maybe we should also relate to the fact that there is not as much of a demand for cigarettes as there was, and I am not too sure it is because of the tax. I believe people are concerned about their health, and for the most part I believe that is why a lot of people are quitting. They are not buying the cigarettes.

That brings us back to the tax and my question to you. We do have a lot of tax on cigarettes, but much of it goes to pay for our health care system? If people chose to quit, do you not think we would save one hell of a lot of money on our health care system?

The Chair: That is a very good question.

Mr LaRivière: If I may, Mr Chairman, I would like to address that one simply by reminding the member that in the mid-1980s, the Ontario Ministry of Health commissioned a study carried out by Stoddart and Labelle of McMaster University where they looked at smoking and health care costs. The results of that study were published in the *Journal of Health Economics*, I think, in the spring of 1986 under the title "Canadian Smokers: Do They Pay Their Way Through the Health Care System?" The authors concluded that smokers do not impose a "net financial externality," which is their kind of language, on non-smokers.

A very senior official in the Ontario Ministry of Health at the time, who reviewed the paper before it was published, said the authors could have gone very much further. In our system the smokers are subsidizing the revenue and expenditure of health care costs in this province.

Mrs Y. O'Neill: Thank you very much for your perspective. I agree with you. I do not think you can tax

people into morality, if this is a moral issue. I do not think taxing will change people's habits. It may change their source of procurement, but it will not change their habits.

I would like you to help me with a couple of things in your brief. You talk on page 3 about the \$370 million loss revenue. Do you know how much of that is provincial?

Mr LaRivière: As I recall, it would be about an even split, but I can get you more specific numbers. I think you are familiar with the report by the forensic unit of Peel Marwick Thorne, by Mr Stamler, who is a former deputy commissioner of the RCMP. I will get you those numbers at the break.

Mrs Y. O'Neill: Thank you. Could you just refresh my memory about the rules of bringing cigarettes into the province or into Canada from the United States? What are the rules, or what kinds of rules? Is everything smuggling? I guess that is what I am trying to get at. Is it once a year? I am sorry, I just do not know what the rules are regarding bringing in cigarettes. I know how many you can bring in.

Mr LaRivière: An adult, a person over 18, is allowed one carton of cigarettes or 200 cigarettes after 48 hours of absence, or at any time if the person is prepared to pay the duty.

Mrs Y. O'Neill: It is limited to one carton.

Mr Sola: It is interesting to note your saying that demand for cigarettes has not gone down; it is just that the source of procurement has changed and that the main cause for that is excess taxation. In reflecting on the fact that a lot of our taxes go to support our social network, where would you estimate that the tax line should be drawn so that if you cannot change people's habits of smoking, at least you change their habits by getting them to buy taxed products that would go back to supporting our social service network?

We cannot go down to the level the Americans have because they do not have the same social network we have, but where would the incentive to going to the States be withdrawn, because of the differential in price for the cigarettes and the other ones you have mentioned, so we would not be losing the other revenue on the groceries?

1200

Mr LaRivière: With respect, in quantitative terms that is an awfully difficult line to draw. As my colleague indicated, a very useful first step would be to put a freeze, a cap, on taxation levels as they stand now. Getting back to your basic point, I think most if not all smokers would agree that given that it is a discretionary product as opposed to a basic staple, it should not be taxed in the same way as basic commodities, if you will. Having said that, I think the consumer, the ultimate taxpayer, expects fairness, but drawing that line in quantitative terms is difficult. But clearly we are over the fairness margin in the minds of consumers.

Mr Jordan: I think we have admitted to the fact that the governments, federal or provincial, are not placing the tax there really for the purpose of collecting money; they are placing it to try to protect the health of the people. What I would like to know is what research has been done

by your industry to try to identify what segment or part of that product—surely it can be identified; not the whole tobacco leaf is going to be harmful. There must be some chemical part wherever; I am not qualified to speak on it. Has there been much work done to identify that so that perhaps the rest of the tobacco leaf could be utilized?

Mr LaRivière: I am not familiar with the scientific research on the agricultural side to which you refer, but I will be glad to look into it and get you the information.

Mr Jordan: I would appreciate it, because it seems to me that there is a part of the product that could be used.

The Chair: We would like that information shared with the entire committee.

Mr LaRivière: Of course.

The Chair: Our time is over. Thank you for your presentation this morning.

The Chair: Our last presenter for the morning is the Association of Canadian Distillers. Thank you for being patient. We are running a little behind schedule. We have allocated 30 minutes.

Mr Mammoliti: Mr Chair, there should be a vote in the House very shortly.

The Chair: It is up to the committee whether we want to adjourn to go up for the vote or continue.

Mrs Y. O'Neill: It is not important to me this morning.

Mr Mammoliti: I have plans for lunch.

The Chair: The committee is going to have to continue. We have to continue our work. I would suggest that if members feel strongly about going to the House for the vote this morning, if we can maintain a quorum I would like the work to continue. We would like to have a minimum of one representative from each party, if it is possible. Do you think we will be able to meet those requirements?

Mr Jordan: I would have to check. I had made a commitment to go to the House.

Mr Mammoliti: I too have made a commitment to go to the House. I would like to ask the presenter if he would mind coming back at 1:30 or 2 o'clock, after question period.

Mrs Y. O'Neill: Mr Mammoliti, I cannot do that. I am sorry, that is impossible.

Mr Duignan: I really cannot meet in the afternoon.

Mrs Y. O'Neill: It is just impossible. These appointments have been made long before.

The Chair: Mr Duignan, Mr Abel, would you be able to stay?

Mr Abel: I think I would be able to stay.

The Chair: Mrs O'Neill, will you be able to stay?

Mrs Y. O'Neill: I will be here.

The Chair: Mr Jordan, what is your position?

Mr Jordan: If you do not mind, I will check and—

The Chair: If you can send a colleague down to sub? As you can see, Thursday is a hectic day for the members because a number of committees sit in the morning, plus the Legislature is in session and around this time there is

usually a vote or possibly even two votes on private members' matters that are raised and debated.

Sir, I want to thank you for coming before our committee. You have been allocated 30 minutes. I would like to turn the floor over to you. If you could just identify yourself for our record and we would be happy to hear your brief.

ASSOCIATION OF CANADIAN DISTILLERS

Mr Rubbra: Thank you, Mr Chairman. My name is Doug Rubbra. I am the vice-president of the Association of Canadian Distillers. I bring you greetings and apologies from our president, Ken Campbell, and our chairman, Peter Wood, who unfortunately are out of the country or they would be here as well. We appreciate the opportunity to come and speak with you this morning. It is nice to see Mrs O'Neill, someone from Ottawa, and we appreciated her presence at the retail council coalition meeting on Monday. It is nice to see the interest of our elected representatives as we discuss these serious problems affecting our industry.

From the looks of who has been speaking to you this morning, you have heard a lot of bellyaching about taxes. I would be remiss if I did not continue on the same subject, and I will do it briefly, since we are the most highly taxed of the groups you have spoken to so far. We represent 10 Canadian distilling companies. It does not sound like a lot of companies, but it does represent about 95% of the Canadian distilling industry. The companies are all Canadian companies, mostly parts of megamultinationals.

If I may, during my remarks I will refer to this handout, which I gave you, on occasion. A picture is worth a few thousand words, and I think some of the graphs in there will speak for themselves as we proceed.

As you are all aware, I am sure, our industry has been subject to a lot of consolidations, a lot of mergers. Shrinking is the best term to describe it. There have been several distilleries closed down in Ontario and several jobs lost. We are not so naïve as to blame it all on taxation. However, we have to say that a significant part of the decline is due to the taxation of our products.

If I can go back, just to put things into perspective for you for a minute, the direct employment by our industry in Ontario is about 2,500 jobs. That was in 1989. Since then we have eliminated about 500 of those jobs through closures of distillers and consolidation of the industry. Those numbers are not big by some other standards, but we are a very sophisticated, mature and totally automated industry and we can endure these kinds of rationalizations without as big an impact on the workforce as that of some other industries. However, in these days a job is a job and we do not like to see any of them disappearing.

If I could refer you to page 3 in your handout, you can see that the domestic spirits market in Canada is down almost 30% in the last 10 years or so, unlike beer and wine, which are sort of holding their own at the top.

The Chair: Those wine sales at the top, is that all imported wine?

Mr Rubbra: That is domestic and imported, sir.

The Chair: There is an asterisk that says it does not include Ontario wine stores sales or Ontario winery sales.

Mr Rubbra: Those are sales through stores that are actually located at winery locations licensed for the purpose of selling their own product only. They do not share their data with us, so we are unable to include them.

The Chair: Would you know what proportion of the decline would be tilted towards the domestic market and/or the imported market?

Mr Rubbra: They are about the same in terms of the ratio between domestic and imported, which have declined. In other words, the market is down 30%. Our domestic sales are down about the same, so the imports would be about that. It does not make a distinction.

In terms of cases, we are talking about a decline from a high of 6.7 million nine-litre cases in 1981 to about 4.6 million in 1990. The reasons for the decline are straightforward for our industry in terms of what the causes are. We loosely group them into three basic categories, the first obviously being taxation. In Ontario the tax load on our products is about 81%; 81 cents out of every dollar spent on our products goes either to the federal or provincial government. We assume that accounts for maybe 50% to 60% of the decline.

1210

Changing lifestyles, trends away from spirits—which I represent—to things like wine, increased awareness of drinking and driving are changes akin to the question at the end of the last presentation about people smoking less. People are drinking less, and we figure that accounts for maybe 20-30% of our decline. The rest we attribute to the twin phenomena of cross-border shopping and organized smuggling. It is very, very difficult to get a handle on amounts and quantities. We use a figure of between 1-2 million cases a year of distilled spirits illegally entering Canada. We get that figure from Canada Customs and the RCMP, who figure out the amounts they are actually intercepting and then extrapolate very loosely that maybe we are catching 10%. The conservative estimate is 1 million and, at the other end of the scale, 2 million cases a year. On a domestic market of 15 million cases, that is a large percentage.

If you look at page 6 you will find our famous bottle chart which most of you have probably seen in the press a few times. It shows a breakdown of the price of a typical bottle of Canadian whisky in Ontario. You can see that the supplier, our industry, gets \$3.70, the federal government gets about \$4.48 and the province gets \$11.47. That compares to prices in 1980 when our industry peaked, when distillers got \$1.92, the federal government got \$2.30 and the provincial share was \$5.11 for a total of \$9.35. It is the same story the tobacco people were telling you; prices have gone up and it is very straightforward in our industry.

I do not know how long you have been having hearings on cross-border shopping but I am sure you have heard a lot about competitiveness and the value of the dollar and increased selection in the United States and service levels and the vacation aspect of a cross-border shopping trip and marketing boards and rents and municipal

taxes and labour costs. All of these obviously contribute to the phenomenon of cross-border shopping. For our industry, those factors I think are minimized relative to most other industries since our product is basically supplier's price plus regulatory impact in terms of taxation at the federal, provincial or state level.

The bottom line for us is that several factors have resulted in our shrinkage, the greatest being taxation. There is an interesting chart on page 7. If you look at the left-hand group of bar graphs you will see that the volume of domestic spirits in Ontario has been declining between 1980-89 while the LCBO's gross revenues have been increasing over the period. That speaks for itself. There can be only one answer to that: the increased tax level.

We are aware that taxation is an integral part of the pricing of our product. We have been actively lobbying at the provincial and federal levels for equalization of taxation rates between the three alcohol types. At the federal level for instance, the distilled spirits product attracts three times the rate of federal excise duty as does beer or wine. We figure a product should be taxed on its alcohol content.

We have been able to demonstrate at the federal level that the law of diminishing returns on their revenues has set in; although they increased their taxation levels for the period 1981-86 and were able to increase their revenues in spite of the volume declines, their revenues are now turning around.

That is an important lesson to learn and as a result there were no increases in Canada in federal excise duty on our products from 1986 until the GST was introduced and that was basically an adjustment because of the GST rate, which resulted in 7% GST at the retail level instead of 19% federal sales tax which we were paying before at the manufacturer's level.

I do not have answers for you in terms of what can be done about cross-border shopping. The organized smuggling issue is probably a bigger problem for us than the cross-border shopping. We have no indication, as you heard from the tobacco people, of any links to organized crime, but we know there is an organized commercial smuggling operation from the United States into Canada going on by truckloads, mostly at the Ontario-Quebec border.

Every case of distilled spirits that is smuggled in costs the government of Ontario \$125. If we use the figures that I was using before—1-2 million cases a year—the Ontario share would be about 400,000-800,000 cases per year. If you extrapolate that, the Ontario government is losing somewhere between \$50 million to 100 million a year in revenue because those products have not gone through the normal LCBO channels in the province of Ontario.

We are concerned about that because the LCBO has a bottom line. If it is not satisfied with sales it is going to increase its tax rates, which obviously reduces our volumes. People criticize us at times for complaining about this problem because the same bottle of Canadian Club purchased in the United States or in Canada comes basically out of the same plant in Walkerville, quite often at a higher price to the American purchaser than to the Liquor Control Board of Ontario. But we represent the Canadian industry, we have our own bottom lines and we are concerned

about the governments whose revenues are affected when products are not sold properly through appropriate channels in this country. As I said, if the liquor boards, including the Liquor Control Board of Ontario, do not realize their bottom lines, the only way they can adjust for that, other than increasing their marketing efforts, is to increase the tax rate and the markup rate as we call it provincially.

The Chair: I do not think they have a bottom line, I just think they follow the instructions of the government.

Mr Rubbra: They have targets, they have budgets; there is a new breed of management in the Liquor Control Board of Ontario these days. They have hired several senior people from major retail chains—Sears, Loblaws, places like that—and they are bringing a free enterprise retail-type mentality to the liquor control board, which is of course a distribution monopoly. They are getting very tough in terms of their options and the way they do business. It makes it a little more difficult sometimes for the industry to survive, but they are the largest liquor distribution entity in the world and they are our largest customer. Forty per cent of distilled spirits in Canada are sold in Ontario, so when the customer speaks, the supplier listens.

If I could refer you to page 9 in your handout, that is the crux of the matter for us. These are a few price comparisons for the types of products which we represent. Once again, it speaks for itself.

As far as cross-border shopping goes, we have commissioned a study to try to answer the question of what people actually go across the border for. The survey that is being done for us by a professional polling organization is something in the order of: Which of the following products would you make a special trip to the United States for, and which do you buy incidentally because you happen to be here? I think we all probably know the answers. They are probably gasoline and tobacco products, as you just heard. That is where the biggest saving is, and they are probably going to rate one and two.

The Chair: Is the study you are doing for internal use only or could you submit it to the committee later on when you receive it?

Mr Rubbra: I will be happy to. We have not received the results yet, but I will certainly give you the results of that study.

The Chair: I will distribute it to the entire committee. It might be nice to actually see what the consumers are saying first hand.

Mr Rubbra: As I say, our industry is in decline for several reasons, taxation being the chief reason. Cross-border shopping and smuggling, which we have to lump together because we have no way of quantifying the amounts, are a significant contributor but not the major contributor. We are very concerned about it. Anything that further erodes our domestic market is of serious concern to the industry.

1220

The Chair: I note on page 13 you are losing tremendous market share to beer, almost 10%. Wine's market share has gone back down to what we could refer to as its

traditional 1981 level. Beer's share keeps rising. Could your loss in market share to beer be attributed in any way to the job losses that you also outline in the report?

Mr Rubbra: Certainly that would be part of it. That is primarily a pricing phenomenon. People only have so much disposable income to spend on things like spirits, beverage alcohol in general. We have found in a lot of our research that people are just throwing up their hands and saying: "We cannot afford it. We have \$20 a month to spend on this kind of product. We can get more bang for that buck through beer than we can through spirits." Yes, there has been a shift in market share but I believe it has been price driven.

Mrs Y. O'Neill: Mr Rubbra, I am very sorry there are not more members here. Explanations will have been made by them; I do not know why.

Mr Rubbra: That is quite all right.

Mrs Y. O'Neill: But I feel that this is an interesting item. We are going to produce a report from this, and everything you have said is in Hansard so I hope it will be taken up by those members who are not able to stay.

I want to ask you a couple of questions. You did not say much about the export side of your industry. Is it a sizeable component?

Mr Rubbra: Yes. I apologize for not including that in the presentation. We are a very export-oriented industry. We export as much as we sell domestically.

Mrs Y. O'Neill: Is that right?

Mr Rubbra: Ninety-five per cent of our exports are Canadian whisky and 95% of that goes to the United States. Canadian whisky is the largest selling whisky in the United States. It outsells Scotch and bourbon combined.

Mrs Y. O'Neill: So this chart on page 9 would be part of your export market; this would be the tax difference which you are showing basically in these price differences?

Mr Rubbra: Yes.

Mrs Y. O'Neill: These are not duty-free?

Mr Rubbra: No. These are retail prices.

Mrs Y. O'Neill: Okay. My other question is on the job page. Of those plants, I know Corbyville has closed. Are the others closures or are they consolidations?

Mr Rubbra: No, they are closures. McGuinness closed down in 1987. They were purchased by Corby, but that plant has been closed. It has been sold and it is being redeveloped into residential property.

Gooderham and Worts, just down the street here on Mill Street, just closed. It was not producing too much. Part of it will be saved as a heritage location, but there will be no production there.

Gilbey has two locations here in Toronto. Their main office and distillery on Kipling Avenue is being closed down. All they are maintaining is a bottling operation around the corner. They will do all their distilling now in their other plant, which is in Lethbridge, Alberta.

Corbyville is the most recent one. It will be shut down completely over this summer.

Waterloo is being phased out over a two-year period, but when all is said and done, all you will have left there is the Seagram distilled spirits museum. There will be no production there any more.

Now, they are consolidations in that those brands have been taken over and production has been taken over by other facilities of the same companies.

In the Toronto area it is a little bit distressing. All we have left now in the Toronto area is Bacardi in Brampton, in terms of an operating distillery. We have a small operation in Grimsby, Rieder Distillery.

In the rest of Ontario, we have Walkerville, of course, with Hiram Walker.

The Chair: Seagram in Amherstburg.

Mr Rubbra: Seagram in Amherstburg and Canadian Mist in Collingwood. Canadian Mist is a bit of a different product. You do not see it very much in Canada, but it is the largest-selling brand of Canadian whisky in the United States. They produce in Collingwood and export practically all their production in bulk to Louisville for bottling. They are a fully operational, 24-hour, seven-days-a-week plant.

Mrs Y. O'Neill: I think these charts will be very useful and I am sure members beyond our present attendees will be interested.

Mr Sola: Your presentation is very interesting but you did not draw the same picture that the tobacco industry did, that hard liquor sales are a magnet to draw people across the border and then while there they take in other amenities, whether it is clothes or groceries. When you look at the chart on page 9, there is about a \$10 liability that you get if you purchase the same product here in Ontario as opposed to Buffalo or Detroit. Do you find that price differential to be a large drawing card to go across the border or not?

Mr Rubbra: I am not sure of the answer. As I mentioned before, we have commissioned a study to try to answer that question of what products draw you across the border, what do you go across for. I have some trouble in stating flat out that, in my opinion, people go across exclusively for distilled spirits products. I have some trouble with the position on that as well, because those two products are specifically excluded from returning exemptions until you have been out 48 hours, so if you are going to bring those back, you either have to pay the duty or you have to smuggle them. I am not sure. We have a \$10 differential on a bottle. It is not as much as a \$20 or \$30 differential on a carton of cigarettes or on a tank of gas, so I do not really know the answer to your question. I imagine it is a combination. People say, "Let's go down and we'll get these things."

Mr Sola: I wonder if you could have your consultants try to answer this question as well, and this is the one I posed to the tobacco industries: Where do these shoppers draw the line? What is the sort of last-case scenario between the price differential here in Ontario and the price differential across the border that they are drawn? Is it \$5 per bottle and \$10 per carton of cigarettes? Is it 5 cents a litre, 10 cents a litre or whatever in gasoline? Because if

the governments are to lower the taxes to reach that rate—if they do not get it in percentage of tax they are applying to the product, they can get it in volume by getting the purchases made in Ontario rather than in the States—I think that would be a very good question to be able to answer.

Mr Rubbra: I agree. That is a good question. I will see what I can do.

Mr Duignan: I have a brief question. I think you indicated earlier that 30% of the decline in sales was due to people not drinking or quitting drinking or whatever the case is and you mentioned that the rest was due to cross-border shopping or smuggling. Do you have any percentage of that? Which would be the bigger, smuggling or cross-border shopping?

Mr Rubbra: It is impossible to guess. We know smuggling is very big in the eastern part of the country, but I could not hazard a guess as to how much is which. That 30% figure is an estimate at best. We figure somewhere between 50% and 60% of the decline is due to price increases due to taxation, 25% to 30% is due to changing lifestyles and the balance is due to smuggling and cross-border shopping. It is extremely difficult to quantify.

Mrs Y. O'Neill: What is the eastern part of the country? Does that start with New Brunswick or is that including Quebec?

Mr Rubbra: Thunder Bay east, all along the water border with Ontario, and especially along the St Lawrence River.

Mrs Y. O'Neill: So the east does include Ontario?

Mr Rubbra: Yes, sorry.

Mrs Y. O'Neill: Those smuggling statistics on page 11 are overpowering.

Mr Rubbra: They figure they get the tip of the iceberg. It is just what they have caught.

Mrs Y. O'Neill: I do not think the quantity of smuggling going on is as widely known as we may think it is.

Mr Rubbra: We certainly bring it up every time we have the opportunity to talk to anybody, such as yourself or ministers, whom we see quite often.

Mrs Y. O'Neill: You are the first one who has really brought us data, statistics. I presume you are in co-operation with Customs and with the RCMP.

Mr Rubbra: Yes, we deal with them. I myself worked for Customs for 12 years.

Mrs Y. O'Neill: Oh, I see. That is why this report is different.

The Chair: Thank you very much for your presentation today. As you heard from the members, they were appreciative of the way your brief was presented. It was presented in such a way we could get the picture quickly.

Mr Rubbra: I am sorry I do not have the text for you.

The Chair: We will get it in Hansard.

Mrs Y. O'Neill: We hope you will be happy with whatever recommendations we are able to make from this committee.

Mr Rubbra: We would be grateful for any.
The committee adjourned at 1233.

CONTENTS

Thursday 20 June 1991

Cross-border shopping	G-959
Brewers Association of Canada	G-959
Wine Council of Ontario	G-964
Canadian Tobacco Manufacturers' Council	G-967
Association of Canadian Distillers	G-973
Adjournment	G-976

STANDING COMMITTEE ON GENERAL GOVERNMENT

Chair: Mancini, Remo (Essex South L)
Vice-Chair: Brown, Michael A. (Algoma-Manitoulin L)
 Abel, Donald (Wentworth North NDP)
 Bisson, Gilles (Cochrane South NDP)
 Drainville, Dennis (Victoria-Haliburton NDP)
 Duignan, Noel (Halton North NDP)
 Harrington, Margaret H. (Niagara Falls NDP)
 Mammoliti, George (Yorkview NDP)
 Murdoch, Bill (Grey PC)
 O'Neill, Yvonne (Ottawa Rideau L)
 Scott, Ian G. (St George-St. David L)
 Turnbull, David (York Mills PC)

Substitution: Sola, John (Mississauga East L) for Mr Brown

Clerk: Deller, Deborah

Clerk pro tem: Freedman, Lisa

Staff: Rampersad, David, Research Officer, Legislative Research Service



G-24 1991

G-24 1991

ISSN 1180-5218

Legislative Assembly of Ontario

First Session, 35th Parliament

Official Report of Debates (Hansard)

Thursday 27 June 1991

Standing committee on
general government

Cross-border shopping

Assemblée législative de l'Ontario

Première session, 35^e législature

Journal des débats (Hansard)

Le jeudi 27 juin 1991

Comité permanent des
affaires gouvernementales

Magasinage outre-frontière



Chair: Remo Mancini
Clerk: Deborah Deller

Président : Remo Mancini
Greffier : Deborah Deller



Table of Contents

Table of Contents for proceedings reported in this issue appears at the back, together with a list of committee members and other members taking part.

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at (416) 325-7400.

Languages in Hansard

Hansard reports all debates in English or French as spoken by the participants. It does not translate remarks made in either language. Headings and tables of contents reflect language use.

Subscriptions

Subscription information may be obtained from: Sessional Subscription Service, Publications Ontario, Ministry of Government Services, 5th Floor, 880 Bay Street, Toronto, Ontario, M7A 1N8. Phone (416) 326-5310, 326-5311 or toll-free 1 (800) 668-9938.

Table des matières

La table des matières des séances rapportées dans ce numéro se trouve à l'arrière de ce fascicule, ainsi qu'une liste des membres du comité et des autres députés ayant participé.

Il existe un index cumulatif des numéros précédents. Les renseignements qu'il contient sont à votre disposition par téléphone auprès des employés de l'index du Journal des débats au (416) 325-7400.

Langues paraissant dans le Journal des débats

Le Journal des débats rapporte en anglais ou en français les débats, selon la langue utilisée par les participants. Les remarques faites en l'une ou l'autre langue ne sont pas traduites. La langue des en-têtes et de la table des matières reflète la langue utilisée.

Abonnements

Pour les abonnements, veuillez prendre contact avec le Service d'abonnement parlementaire, Publications Ontario, ministère des Services gouvernementaux, 5^e étage, 880, rue Bay, Toronto (Ontario) M7A 1N8. Par téléphone : (416) 326-5310, 326-5311 ou, sans frais : 1 (800) 668-9938.

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON GENERAL GOVERNMENT

Thursday 27 June 1991

The committee met at 1018 in room 151.

CROSS-BORDER SHOPPING

The Chair: I call the standing committee to order. As members will recall, 12 hours were allocated to the hearings that are presently ongoing. We have four hours and 57 minutes left and we have a list of presenters here today.

CANADIAN FEDERATION OF INDEPENDENT BUSINESS

The Chair: The first presenter is the Canadian Federation of Independent Business. This organization has been allocated 40 minutes. You can use that as you wish. Hopefully you might want to leave some time for questions from the members and answers from yourselves. For the record, I would ask that our presenters please identify themselves, whom they are representing and what position they hold in their organization. I would like to turn the floor over to you.

Ms Ganong: My name is Linda Ganong and I am the director of provincial affairs for Ontario for the Canadian Federation of Independent Business. On my right is Pierre Cl  roux, who is our senior economist.

Our organization, as you probably know since we have been here before, has about 40,000 Ontario members who are the small and medium-sized businesses of the province. About 97% of Ontario firms have fewer than 50 employees and are among our members.

I would like to turn the floor over to Pierre for the bulk of our presentation. We will try to leave lots of time for questions.

Mr Cl  roux: Because cross-border shopping is such an important issue for our members, we conducted a telephone survey last May which reached 500 retailers from every part of Ontario. The brief that we are going to present summarizes the results of the phone survey.

Before talking about the impact of cross-border shopping on retailers, it is important to look at the extent of the problem. The first figures show a little bit how important cross-border shopping is for Ontario. People have always crossed the border to shop, but we have seen, in the last three years, a very significant increase.

There are many reasons for this. One of the most important is not only that more and more people are crossing the border, but the largest increase is for people who are paying the duty, what we call on the graph the B-15 form. It is people crossing the border, buying in the US, and coming back and paying the duty on what they bought. That is very significant because more and more, people consider it is worth it to cross over the border and even pay the duty before they come back. I think that shows the seriousness of this issue.

Why are so many Ontario residents crossing the border? We asked the question of our retailers, and the next chart, figure 2, gives the results of this question. Of course, the first reason, as other studies have shown, is that prices are cheaper in the US. Every time we ask retailers or people why so many people are crossing the border, it is the same answer: it is cheaper in the US. If you have the choice to buy a Sony Walkman at the Eaton Centre here for \$100 or to buy the same Sony Walkman in Buffalo for \$60, apparently it is a very easy choice. People are just going to Buffalo.

The second most important reason is that people will not pay the GST. I think it is more than the GST; people are fed up with taxes. They find they pay too much tax. They feel there are a lot of inefficiencies so they are just fed up. They see crossing the border to shop in the US as a way to oppose paying tax, so it is kind of a tax revolt really. The opposition to taxes and cheaper prices in the US are really the two most important factors why people are crossing the border.

Ontario retailers are really hurting right now. We can see on the next chart, figure 3 on page 5, that total retail sales in Ontario have dropped 12% in the last year. We see that retailers in every sector are hurting, but especially in a few of them like shoe stores, clothing and also furniture. In that sector, sales dropped almost 40% in the last year.

Of course, cross-border shopping is not the only factor; we are in the middle of a recession. But especially when you are in the middle of a recession and your sales are dropping, you do not need more and more people crossing the border to shop in the US. The situation is very serious for a lot of retailers. In figure 4, we can see that the closer you are to the border, the more important the effect of cross-border shopping is on your business.

For the border towns, when we asked the question, "Are you affected by cross-border shopping?" almost 70% of people said, "Yes, we are affected." If you go a little bit further, that half-hour drive from the US border which includes Toronto and Hamilton and those cities, 63% of retailers said, "Yes, we are affected by cross-border shopping." But even if you look at Ontario as a whole, 32% of people are saying, "Yes, even if we are not that close to a border, we are affected."

It is not in this report, but we looked previously at the city of Thunder Bay, which is three hours away from the US border. They were saying cross-border shopping is a huge issue over there. Retailers are losing business and some of them are going bankrupt because of that.

In table 1 on page 6, I give a breakdown of different sectors in retailing. You can see that cross-border shopping affects the different sectors of the retail industry differently. The most affected are general merchandise stores, which are kind of department stores, and 87% of people in

this sector said they were affected by cross-border shopping. It is very significant. Furniture stores, eating and drinking establishments and clothing stores are also very affected.

It is interesting to note that in none of those sectors did fewer people say they were affected than not affected by cross-border shopping. Even in food stores or automobile dealers it was 50-50; they were split between the issue.

Finally, as shown in figure 5, we asked retailers, "What is the impact on your business of cross-border shopping?" Some 90% said they were losing business. They are less profitable, sales are dropping and of course they have to lay off people to face this new issue of cross-border shopping. The most shocking result is especially the next two figures—12% of retailers in Ontario said they were going to be forced to close their business because of cross-border shopping and 8% said they were going to move to the US to face this problem. For a lot of retailers, this is a survival issue, and especially for people close to the border.

In conclusion, I think it is pretty clear: retailers are in bad shape because of the recession, but especially because of cross-border shopping. Even if you are not very close to the border you are affected by cross-border shopping. We need to act now. I think for a long time governments have been pointing fingers at each other, but now we need action. There are some things we can do right now to ease the problem.

One of them is no more tax. I think everybody agrees with that. Individuals are fed up. They go to the US because they do not want to see any more tax. Enterprises are taxed to death really, and they need a break. We propose to have an exemption for the Ontario payroll tax for small firms with a payroll of less than \$300,000. We definitely do not want to see any more taxes like the gasoline or tobacco or liquor taxes which encourage people to cross the border to shop.

We think that even if it is not popular politically, it is necessary for the good of the province to harmonize the provincial sales tax and the GST so the provincial sales tax can be collected at the border, which will add 8% to the cost of goods you buy in the US.

Those are some of the actions the government of Ontario is able to do now. They will not solve all the problems of cross-border shopping, but they will certainly ease a good part of the problem.

Ms Ganong: A final comment I would like to add to what Pierre has said is that there is really a need right now for governments to work together. It is very tempting with an issue like this for the various parties to point fingers at each other and try to allocate the blame. It is fun political gamesmanship and it is understandable, but it is not solving the problem. If ever there was a time for the three parties to work together at all levels of this government, with the state of our country right now not just on cross-border shopping but all the things that are going on constitutionally and getting through the recession, this is the time.

I would like to put out a plea to all of you to rise above the level of partisan politics and do your best to urge your

leaders to start co-operating. Let's get these problems solved. We are happy to entertain your questions.

1030

Mr Brown: I am interested in your submission. It is not unlike a number of ones we have heard. I do not think that is surprising at all. You have brought some information to us that is at least a little different, but basically it confirms what we have been told.

Knowing that this phenomenon has increased greatly in the last three years—that is almost directly associated with the rise in the Canadian dollar versus the American dollar, and we know that interest rates and dollars and deficits are all clearly linked—you are suggesting here that we eliminate or cut taxes. To be fair, there is a \$10-billion deficit or close to it projected in this province and the government needs revenue. To me, one of the most significant factors of this cross-border shopping is that there has been a 15% appreciation in the value of Canadian dollar versus the American.

I just wonder what your comments might be on that particular phenomenon, the combination of interest rates, deficits and the high Canadian dollar. There seems to be a very clear relationship between those.

Ms Ganong: Those are all factors, definitely. The reason we are focusing on the tax burden is because we also found, in the second study in front of you that we did last fall, that the differential tax burden between retailers on this side of the border and on the other side of the border was so profound that it was impacting on prices. As we have seen from the research, the major reason shoppers cross the border is because they get cheaper prices in the US. Our retailers can only go so low in terms of bringing their prices down, partially because of the tax burden they are bearing right now. We are not talking about the tax burden consumers are paying, but the actual tax burden the retailers themselves are paying as businesses. That is one of the reasons we focused on that. There has not been enough attention looking at that differential tax burden and how discriminatory it really is for our retailers here.

In terms of the deficit, obviously it is a problem. When we asked our members how they thought about it, they were adamant that running deficits is not the way to go. They really feel government should be focusing much more on spending cuts rather than tax increases. What is surprising to many people is that the first place they would like to see spending cuts is in all programs aimed at business: grant subsidies, all those kinds of deals for business. They would like to see those cut first.

Small businesses do not get any benefit from those programs. The red tape involved in wending your way through the system in order to get the grant—they never get them anyway. They feel their tax dollars are paying for programs that the large businesses are benefiting from. They would rather see those cut. Number one cut: get rid of all that stuff. I have heard our president say you could probably eliminate the Ministry of Industry, Trade and Technology and maybe we would get 10 calls from members complaining, because most of our members do not get the benefit anyway. There are places where the government

could look at spending. They do not support major cuts in health or education spending. They see that as a necessary, important investment in our province, but certainly in grants to business there are lots of places where cuts could be made.

Mr Brown: That is interesting. I have heard many of the same comments from business people in my area. One of the problems with that is that it might be a great idea, but the fact is that about 80% of our spending goes to what you just said: health, education, social services, things that business does not want to see cut because they are seen as investments in this province.

Ms Ganong: True enough, but some of that spending does not go directly to those services. A lot of it is tied up in administration, duplication and problems like that. There are places where government, if it really wanted to put an eagle eye to it, could do some cutting.

Mr Brown: I hear you.

Mrs Y. O'Neill: I have a very short question. I am always impressed by your extraordinary research and I am very pleased that you accommodated the committee to come.

Would you comment a bit about the new initiative of the coupons at the gas stations? I think it is Sarnia. Have you examined that at all or have your members responded? It is a new initiative that I think started just this week.

Mr Cléroux: It is not a bad initiative, but we feel we need more than that. The problem is that we are not competitive. We are talking a lot about cross-border shopping, but that is really the tip of the iceberg. Retailers are not competitive; our manufacturers are not competitive. I think those initiatives are not bad ideas, but they are not going to solve the problem. We have a really serious problem of competitiveness now and if we do not address it, we will be in a worse position and we will have a lot of lost jobs in the next 10 years.

We would like to see a more global approach to cross-border shopping than those little initiatives here and there, because we do not believe it will solve the problem when we are talking about the Canadian dollar. It is one of the factors but, to give you an example, there was a study done by Ernst and Young: If you buy a sheet for a bed in the US for \$30, that is the final price, while the retailers here buy it at \$40. How can you be competitive when you buy it at a higher price than the final price in the US? That is really the problem. We have to be competitive. We have to lower our tax burden. Labour costs, transportation costs and duties are higher here. All of those are the problem. We are really looking at a global answer and not just at the local initiatives.

Mr Turnbull: I compliment you on an excellent presentation. As a new parliamentarian, I am frustrated at times by the fact that when we get excellent witnesses such as the two of you, who have done an awful lot of research, we get such a few minutes to question you. I am really going to concentrate on two points you made, although I would like to ask about a lot of things.

You talked about harmonization and you also mentioned getting governments to work together. Now GST, as

will be recognized by everybody, has become a highly politicized issue. Given the fact that early in this century, when the manufacturer sales tax was brought in, about 80% of our gross national product was attributable to the manufacturing sector and became more and more burdened with taxes, it can be argued that GST has spread that out a little bit.

It seems to me also that if one were to harmonize provincial sales taxes along the lines of the GST, that would give us the opportunity to reduce the amount of sales tax we have in shops and move some of that burden over to the service sector, which would probably help some of the difficulties we are having. Could you comment on that?

Mr Cléroux: Yes. We have been asking for harmonization for the last three or four years, I guess, and for the right reason. There are two reasons, really. First, if you harmonize the GST like they are doing in Quebec and Saskatchewan, you will be able to collect the provincial sales tax at the border. So when people are coming back they will pay 8%, or if they drop the rate, 6% or 7% of the provincial sales tax on the goods they buy from the US. It will make a difference in the price. It would probably discourage people from going. It will also prevent the loss of revenue for the province.

But the other also very important reason is the compliance cost. When you have two retail sales tax systems, you have to administrate two different systems with different exemptions. You have to remit to different governments. The frequency of remittance is different. This is very costly for retailers and the study we have done shows that it is even more costly for small retailers than the large ones because the large ones benefit from the computer systems. Once they implement the change in the computer systems this is it, but for the small person who has to do all the paper burden at night or on the weekend it is twice as much because you now have two systems.

So, for efficiency and also to solve part of the problem of cross-border shopping, we have been—

1040

Mr Turnbull: I agree with what you have said, but I was actually asking about the idea that if you harmonize, in that you tax the same items as the GST taxes, then you are moving some of the retail burden over to the service sector which is not currently taxed.

Mr Cléroux: Exactly.

Mr Turnbull: Therefore you would have lower sales taxes overall. Would that address it?

Mr Cléroux: Yes, because the retail sales tax has been implemented for the last 50 or 60 years. At that time the service industry was really not very important in our economy, but now, for the last 10 years, the service sector is one of the most important ones. I think we have to modify our taxation structure to address this change. That is exactly what you are saying, that it is unfair that only the retail side and not service sector is taxed.

Mr Turnbull: Yes, to tie in your comment about all governments having to work together, as I said, the GST has become a highly politicized issue and it is no secret that elections have been run and lost to some extent as a

result of the GST, no matter whether it is good or bad. I mean, how does one sell it? You are saying to parliamentarians, "You have to work together." I agree, but I suppose the frustration I have is that I want to get my colleagues in the other parties to examine this option with an open mind.

Mr Cl  roux: I would not comment too much on what went wrong with the implementation of the GST, but one of the problems was not saying the truth. At the beginning they were saying they were not going to get more revenue than the federal sales tax. We realized that was not true. We have been studying the GST for the last six years and know every angle of it. We looked at other countries and we told the federal government it was going to get a lot more revenue than it was saying and we now see we were right. Also, after that, the government members changed their minds and said, "We'll use it for the deficit."

I agree with you that implementing a tax like the GST is not popular, but when you say the truth from the beginning, I think you make things a lot easier.

Mr Turnbull: Have you done an analysis? If one were to harmonize, and we are speaking about Ontario, what level of provincial GST would one probably arrive at to be revenue-neutral, given the fact that you are spreading from the retail sector over to the service sector? How much could we reduce retail sales tax as a provincial GST?

Mr Cl  roux: It is very difficult, but our estimate is 5% to 6%.

Mr Turnbull: It is 5% or 6%.

Mr Cl  roux: Instead of 8%, yes.

Ms Ganong: I would just like to add something to Pierre's comment, which is to do with the issue of trust. Right now the consumers are very resistant to the GST; it is a trust level. They do not see governments managing themselves in the economy the way they would like. They do not trust that the billions of dollars that are going to be raised by this tax will be used properly. We hear this from our members all the time. They pay a lot of taxes and they keep telling us it would not bother them so much if they felt the money was being properly used.

One of the political problems in harmonizing the GST is spreading the tax to the service sector. Consumers are going to be paying tax where they have never paid tax before and that whole issue of "We don't trust governments to do the right thing with this tax money" is going to come right up again.

Small business people do not run deficits. If they do not make their budgets, they go out of business, so they do not see why governments should not have the same kind of stringency and bring the same kinds of principles of good management to themselves.

Mr Turnbull: I agree with you completely. I am a small businessman myself and my wife has a small retail operation, so everything you have said this morning rings true to me.

Ms Ganong: That is one of the ways. If it is going to be made at all politically palatable, it has to start with governments getting their houses in order.

Ms Harrington: First of all, I would like to thank you both for coming. Are you from Toronto?

Ms Ganong: We both are. We are expatriate Quebecers.

Ms Harrington: I see. I certainly would like to thank you for the research you have done. We know that getting this kind of information certainly is not cheap and you have to do a lot of work to get it.

Many different things you have said are very important. Switching taxing to the service sector is something—as you say, the economy has changed so much and it is radically changing month by month, it seems. The trust of people in government is another big issue.

I would like to try to get to some of the things you mentioned, especially working together. I represent the city of Niagara Falls and the merchants there, of course, are very much hurting. My office is right on the main street and I have canvassed the streets over the last few years to see how things are going. I really feel that they are trying to work together, but in some ways they feel it is a losing battle.

We had the Shop Ontario campaign that originated in our area and I tried to get involved in that. I am just wondering about Canada Day this weekend when we go to celebrate as a community, if we can feel that kind of importance of being together. My father started a small business and it was a family business. The whole family worked in the business, so I know what it is like.

Also I should mention to you, at an NDP convention in British Columbia some years ago, when we got off the plane we were met by representatives of small business—I think it is the small business federation of British Columbia—with leaflets saying how they were willing and had worked together with an NDP government there and were trying to influence, of course, our convention delegates in that direction. So I really think that is the only way to go.

Have you had any involvement in working with the government or against the government? I know there is supposed to be a demonstration today. Have you been involved in that at all?

Ms Ganong: That demonstration is organized by a group called, I believe, People Against the NDP Budget. They are just a group of citizens who felt like they needed to do something. Some of them may be members of ours, but they are not part of our association, they are not part of any political party. It is a real grass-roots protest.

We have been working with all governments. Our organization is in its 20th year right now and it has been working with governments for the last 20 years at all levels. We are actually beginning to work to some degree now at the municipal level. We started out at the federal level. We were able to expand our capacity to work with all provincial governments. We have worked with NDP governments in British Columbia, Manitoba and Saskatchewan before and now with this government. So, yes, we are definitely out there. That is what we do: we represent the views of our members to the government constantly.

Ms Harrington: I think your bottom line is absolutely correct, that we have to work together because we want

jobs in this province, and tax money, of course, to keep things going, to improve things.

Ms Ganong: Part of the difficulty with governments today, because they are so complex and there are so many different ministries, is that oftentimes it is difficult to co-ordinate the policies across all the different ministries so that they are all focusing in the same direction.

Taxation policies, labour relations policies, things that have to do with cross-border shopping are all going to have an impact. What the Treasurer may be trying to do, say, might be cancelled out by something that the Minister of Labour is bringing forward, because it is all part of a package. Keeping that co-ordinated focus just across government is difficult enough in these days and it is really crucial.

Ms Harrington: I would like to tell you that it is something our government is certainly addressing. During the summer we will be making some strategy and plan as to what the future is.

Mr Duignan: Just some quick comments before I ask a couple of questions: You mention the fact of government getting its house in order and small business having a budget to work within and if it does not, it goes out of business. One thing that we have to do as a government is that we have a human element involved.

What do you do with a large number of people who are laid off? What do you do with a large number of people who rely on the government for some assistance to get themselves over some problems, such as in this recession? Governments have a human element to deal with too, as well as trying to get their house in order, and sometimes that can get very difficult.

I just want to follow up on Mr Turnbull's point on harmonization of taxes. In Europe, for example, in the value added tax you have different levels of VAT. You will find there is a different level of VAT on clothes and a different level on services and again a different level if you are buying appliances, for example. Could you see a system like that in this province, where you would have one or two levels, some lower dealing with, say, clothes and services, and a level higher dealing with more high-priced ticket items?

1050

Ms Ganong: I am going to speak to your point about the human element and let Pierre talk about the VAT system. Obviously, governments have to deal with people's concerns. In fact, small businesses do too. Ms Harrington, as you mentioned, it was a family business and the people who are there working in the business are often family members, friends, neighbours, people who are very close. No one wants to see those people get laid off.

There is one way of dealing with the problem, which is trying to patch up after people have been laid off and try to ease the pain. But the more farsighted, long-range way of looking at it is to try to prevent the job loss in the first place, to bring in the policies that are going to stem the haemorrhage of jobs, that are going to help in job creation. To be sure, no one wants to see people suffer when they lose their jobs, but surely the best thing to do is to make

sure the job loss does not happen and to cushion against the job loss happening. Those are the kinds of policies we are talking about.

Sometimes the policies the government brings in to try to ease the pain actually exacerbate the job loss, in which case you are no further ahead; you are actually further behind. So that human element also needs to be considered. Let's try to keep people in their jobs. Nobody wants to lose a job.

Mr Duignan: In some cases, though, such as the impact of this severe recession, some of these things you are talking about are sometimes out of the control of—

Ms Ganong: There are no easy solutions, definitely.

Mr Duignan: That is what I am saying. There are no easy solutions.

Ms Ganong: But often a balance does need to be struck. For instance, with some of the labour relations programs that are coming in with the wage protection fund, the balance may need to be struck by, instead of giving 100% compensation to workers who lose their jobs that way, giving them something less but making sure there is not as big a drain on the Treasury as there may be. Everybody suffers. Business owners, when they go out of business, do not get to draw on the wage protection plan. They do not get unemployment insurance. They have already lost their house, their car, their personal assets. They are right down the tubes. So there are balances that need to be struck and they are not easy decisions to make.

Mr Duignan: Hopefully we can strike the balance in that piece of legislation. We have tried to. Hopefully we will hear from you during the course of the summer on that.

Ms Ganong: Definitely. We have been consulting on that all along and we will continue to do so. I will let Pierre speak to the VAT issue.

Mr Cl  roux: The problem we see with having different rates is its complexity. If you have different rates or if you have exemptions, you increase the complexity of the tax, which is very costly, not only for business but also for the government. People have the impression it is a very progressive tax if you have lower rates for clothing and food, for example, because poor people spend a bigger part of their total revenue on clothing than rich people. On the other hand, rich people spend a lot more money on clothing than poor people, so it is not really progressive. A study people have done shows that when you have different rates it is not necessarily progressive.

The way we prefer to see it is tax credits: having the same rate for everybody but helping the poor with tax credits. The retail sales tax they are paying, for example, they will get back through the tax credit. It seems to be a lot easier way for everybody, not only for business, but like I said, also to administer for the government.

The Chair: Unfortunately the time allocated to your organization has expired. We want to thank the Canadian Federation of Independent Business for its presentation today. We will make sure you get a copy of our report when it is completed.

ONTARIO DOWNTOWNS INC

The Chair: The next presenter this morning is Ontario Downtowns Inc. Please come forward. Your organization has been allocated 40 minutes. You can use as much of the 40 minutes as you like for your presentation, and whatever time we have left over will be used for questions and answers. I understand you have a radio commercial you would like us to hear. I would also like to ask you to identify yourselves for the record, whom you represent and the positions you may hold within a particular organization.

Mr Etele: My name is Gabriel Etele and I am the president of Ontario Downtowns, which was formerly known as the Ontario BIA Association, business improvement area. We are really an association of small business districts all across Ontario. We represent mainly small business and business improvement areas. With me is Ian McFarlane, chairman of our government affairs committee, who has prepared this report I will be reading to you.

May I first take the opportunity to thank you and the whole committee here for inviting our association to represent our views regarding the impact of cross-border shopping on our members, particularly with regard to the effect on job losses, decreased sales and tax avoidance.

As you probably know already, Ontario has over 230 business improvement areas. Not all of them are members in our association, but in the past year, of the 230, 163 have been members of our association. The others are generally considered to be very tiny. In most instances they do not even have staff and therefore operate on a fairly basic level, very grass-roots, mother-and-father kinds of operations.

Our membership, incidentally, also represents about 150 municipalities. In our existing membership we hold access to about 24,000 commercial businesses, again small businesses, and of course we contribute about \$12 million to improve communities across Ontario.

Business improvement areas were created by the government of Ontario primarily to stop the deterioration of downtown districts, urban centres and so forth. They were put into operation by municipal bylaw and in all cases are governed by volunteers. We also have representation on all of our boards of municipal aldermen, councillors and so forth.

Through wise planning, physical beautification projects and careful promotions, we are involved in all of these particular areas to varying degrees, depending on the size or development stage of the particular BIA, whether it is a new BIA in a particular district or whether it has been around for a number of years.

We have been very successful in a couple of areas: one, in retaining historical aspects of Ontario downtowns, revitalization projects—a lot of that is physical improvements—and in competing with the widespread commercial proliferation of the retail malls that were established in the expansion to the suburbs in most of our communities. Malls are not a problem for us other than the fact that we are trying to recreate the uniqueness of the downtowns. We have been evolving.

However, nothing affects our business improvement areas more than what we call market shifts. When our customers decide to visit another area to purchase consumer

goods, visit financial institutions or request services which are readily available in their own home town, then this is what we call a market shift.

How else can we describe cross-border shopping than a market shift, a very significant one? What are the effects of cross-border shopping on business improvement areas? I think at this stage of the game it is too soon to measure these effects, although we are getting a number of documents coming forward that are coming up with some interesting figures. The Canadian Federation of Independent Business is one example. The chamber of commerce is involved in a number of studies. Ernst and Young have completed a number of activities as well.

With respect to the Ernst and Young studies, they are in the process of determining the business losses attributable to cross-border shopping. Just yesterday we received information from Kingston, a member of our downtown BIA, that the preliminary report by this company for the Kingston area, which was commissioned in May of this year, shows that approximately \$101 million in income has been lost, which equates to approximately 720 lost jobs. We understand that a similar survey by the same consultant done earlier in the year in Sault Ste Marie showed the same ratio. In effect, according to their figures, we are looking at losing 7.2 jobs for every \$1 million that is lost out of Ontario. Let's say seven jobs; there is no such thing as a 0.2 person.

1100

What can be done, or should be done, to discourage cross-border shopping? First of all, how can we, the business improvement area, stop this market shift to the United States? I guess another way of looking at it is, what can we do to make ourselves more competitive, to keep people here in Ontario to purchase our own products and to provide jobs for our own people? We can do a couple of things.

First, we have to inform our customers of the social and economic effects of cross-border shopping. At the present time, BIAs are spending literally thousands of dollars in information advertising, promoting our own products locally. We have two radio commercials which try to point out the effects of cross-border shopping by using a positive "Shop in Canada" theme. With your permission, at this point I would like to play these commercials for you.

[Audio presentation]

Mr Etele: This is part of an information campaign. We ourselves also encourage our members to use this "Shop at Home" theme in their own advertising wherever possible. This is just one of the things we try to do ourselves.

Another major area, basically, that we should be looking at is better service to our customers, in terms of changing the attitude of our merchants, our retailers, our customers and so forth, and as well as to provide motivation for companies and small merchants to stay in business. Training becomes a very key area for us in terms of our future directions.

Ontario Downtowns will continue to work to solve these problems in the coming year, primarily in these two major areas. How can the government help? Can the government

help? I think so. We believe the government of Ontario, which already recognizes the problems created by cross-border shopping, can take action fairly immediately in three specific directions.

The first one is a mass media information campaign, similar to the radio spot you heard, involving industry, government and, if possible, retail and commercial organizations, primarily to convince and motivate residents of Ontario of the social effects of cross-border shopping and the losses of social benefits which might occur.

Second, the provincial and the federal governments should be working together to collect taxes at the border which can now be avoided, the same taxes you and I must pay when we buy a product or service in our home-town community.

Third, both governments must work to produce, hopefully, a harmonized or combined tax refund form for Americans who shop in Canada and pay extra taxes. A standard simple tax refund form would include information on custom and excise duties, goods and services tax, provincial sales tax, etc. These forms could be available in all retail stores and at border crossing points. This is something we hear consistently from many of our own individual members.

Ontario Downtowns believes these three simple suggestions might help to reverse the market shifting out of Ontario. It might also indirectly increase patriotism for Canadians, pride in the products that are made in Canada and pride in the social benefits provided by both the provincial and the federal governments across Canada.

We also hope there will be an increase in American purchases in Ontario, for when you combine the tax refund and add the US dollar rate of exchange, the US shopper has very strong buying power here in Canada.

In conclusion, we, the Ontario business improvement areas staff and volunteers, will continue to do our part through our own communication efforts and by supporting the programs which the government of Ontario may wish to introduce, perhaps jointly as partners, to halt this market shift of cross-border shopping and hopefully to build stronger, healthier downtowns throughout Ontario.

I might also add just as a footnote that we are currently in the process of meetings with the Minister of Municipal Affairs and trying to set up partnership arrangements in servicing the government's needs to distribute information, as well as our needs in terms of servicing our own members to be more competitive, to be able to survive and provide jobs. If businesses do not stay in business, then the jobs that are lost basically become the responsibility of government and, one way or the other, we are going to be paying for them. As business in general has been traditionally the driving force of the economy, I think it is incumbent upon all of us to work together to try to keep it very successful and prosperous.

Again, the community we represent is the very small businesses, in large proportion. I would say a good 80% of our members are in small communities around Ontario. I am not looking at the Toronto market, because Toronto really is immense, but if you go outside this particular municipality, in terms of the Miltons and the Streetsvilles

and the Kingstons—and even Hamilton, for example, where I come from—we are very small communities of 300,000 to 400,000 and less. Most of our members, in fact, are two- to three-people, owner-operated businesses. Those are the people we represent. They are currently going through tremendous stress and strain. Some of them are virtually spending most of their time earning money to pay the taxes, and what is left in terms of a profit margin often forces them into bankruptcy.

Mrs Y. O'Neill: I am very pleased that you were able to come. I have a very soft spot for downtowns as opposed to malls, having basically been born and brought up on Bloor Street in Toronto, which certainly was a downtown shopping area.

I am happy you brought the commercials. I had not heard that. I have seen some print media that are similar in their presentation. I would like you to say, if you could, what the response has been to some of that. Have you had any response? Have you had positive or negative response?

Mr McFarlane: I come from Belleville and I know the Kingston area fairly well. We used these commercials at Christmas last year, and not only our own members were positive about it but also the general public, who said, "Yes, that's a good idea." The comments we got were favourable to this type of advertising. We did not expect much comment from the public, but we were pleased when we got it. Even the newspaper noted that we were doing it.

Mrs Y. O'Neill: Oh, good. Because there has been at least some impression given that people will not like to be directed or told where to spend their dollars. In fact, even that kind of advertising could backfire in that it does seem to be—what should I say? "Preachy" is the word I am going to use. I am glad that was not your case.

If I may ask a couple of other brief questions, you mentioned service and then you just brushed that very lightly. Could you tell us anything you are doing about initiatives to make your members more aware of service, or are you into any co-operative training efforts with any educational components in the communities?

1110

Mr Etele: Essentially, this is a relatively new area for us. We have just gone through a devolution process with the ministry where we have taken over privately, as an association, the delivery of a number of services—a newsletter, surveys of our particular membership in terms of our own organizations, how we operate and so forth. We are now into that phase, and that has been over the last three years.

We have basically made great headway in that area. This is a restructuring of Ontario Downtowns, so we are now at the point of the structuring or the formulation of these kinds of services in terms of training people to be positive in their outlook, to embrace the customers when they come in, because in fact the customer is always right and you have to service them well.

According to a Gallup study, I understand, in the United States service is the key. When you walk into an American retail operation, they are friendly. They practically

hug the customer. The prices of course are significant. It is hard to fight those kinds of things. Here in Canada we tend to be a little more conservative and a little more staid. Our whole goal is to work with perhaps the Ministry of Municipal Affairs and people like the Retail Council of Canada.

There are programs to increase services and to motivate people in these areas, but I do not believe they are effectively administered or widely distributed at this point in time, so our whole focus, hopefully, in terms of our objectives for certainly the next short term is to build partnerships with, let's say, the Retail Council of Canada, or with the Canadian Federation of Independent Business perhaps, with the ministry as a component. Together, collectively, we can kick in fewer dollars, because dollars are always very tight, and yet we can have a bigger impact on the general community of small business. It is a new area that certainly we are looking at focusing on. It is by no means that unique in the sense that there are programs out there, excellent ones.

Mrs Y. O'Neill: I am very happy to know that you are working with the Ministry of Municipal Affairs. I think that is very healthy. I am certainly happy with the partnerships you are building beyond that.

Could you say a little bit about your response to what is happening in Sarnia this week, their new initiative, tying the purchasing of gas and vouchers? Have you discussed that at all?

Mr Etele: Not in particular, but again, that is similar to, I understand, the zones proposed by the Ontario Chamber of Commerce. Is that not related?

Mrs Y. O'Neill: No. At the gas stations they are giving coupons from, I think, about 25 retailers within the city—some of them have a value of up to \$15—on all kinds of things from services to merchandise. I feel it is certainly a good move. I think people like to feel they are getting a bargain in whatever way the bargain is achieved.

Mr Etele: It has to be a relatively new program.

Mrs Y. O'Neill: It just started this Monday.

Mr Etele: It has not yet filtered down to us as of this date, and certainly not for this meeting, unfortunately, but I can certainly find out. They are very active members of our association. They are always trying to come up with innovative programs, as are some of the other communities. Kingston, again, has the same kind of thing. Windsor and all those border areas are trying to look at—mind you, they are not the only ones.

As you probably know, one of the main areas we have to battle is parking. Malls supposedly provide the perception of free parking. It is by no means free.

Mrs Y. O'Neill: I know it is a real problem in Kingston.

Mr Etele: That is correct. However, many of our BIAs have all kinds of parking coupons and parking discounts and vouchers, free parking for a day and half a day in certain particular periods. We do that kind of innovation on a fairly regular basis. In this instance, it is with regard to cross-border American shoppers and trying to keep Canadians here.

Mrs Y. O'Neill: I will just close on an upbeat note. A couple of weeks ago, I spent the weekend in Stratford, Ontario, and I have never been served better in every establishment I was in, whether it was the hotel, the restaurants or the stores. I certainly thanked those who were serving me. We are not really all, as may be pictured, disinterested. There are communities that really do know how to serve the public, and I found one.

Mr Etele: I agree.

The Vice Chair: Mr Duignan?

Mr Duignan: First of all, let me thank you for coming here this morning and making this excellent presentation. I have a couple of points.

I guess we have not always done a very good job in promoting ourselves. Hopefully, one of the recommendations coming out of this committee is that we do an aggressive media campaign. I think it is very important not only to keep people here in Canada but to attract people from the United States to Ontario as well.

I want to focus a little bit on the tax refund form that has always been available. We have always done a very poor job in selling the fact that the American visitors or foreign visitors can in fact get some of the tax back, not like in Europe where in some countries the sellers make a very aggressive point of it to the tourists coming in.

I was wandering around downtown Toronto last night and all of a sudden I saw appearing in the stores signs actually indicating that you can get a refund on the GST and PST taxes. It is the first time I have seen that happening and it is starting to happen. I was quite pleased to see that happening here in Toronto and I think we have to get a little more aggressive as a selling point of the stores.

In Europe, again, when you want to get a tax refund, you go to the service desk within that store and they fill out the form and stamp it saying you have purchased it and it is a bona fide purchase. When you leave at the airport, some airports in fact have an instant refund desk available where you actually get your money back in a number of different denominations, and they facilitate you to get the tax back. I was wondering if we should be a little more aggressive in doing that and how we could go about doing it.

Mr McFarlane: One of our directors, Peter Mercer, who is in Ottawa, has been working on the answers and the solutions to this simple form or simple availability of refund for quite some time. I cannot say any more than that our association is looking into exactly that question and hopefully Peter Mercer and his committee will be able to answer that question fairly soon. As soon as they do, we will forward you the information on refunds per se for American tourists.

Mr Duignan: Or indeed any tourists coming into Canada or Ontario. I think it is a really good selling point and I think it will be an excellent selling point to attract American tourists to Ontario.

Mr McFarlane: He was very strong, if I may mention, on the co-operation between the provincial and federal governments on rebates for the provincial sales tax as well, on that form we have mentioned in this submission.

We hope the government too may do something in that regard.

Mr Duignan: We have to be a little aggressive on it, not just do a flim-flam and not follow it through, making it easy for people to get the refunds. That is an important point, too, either at point of exit or in fact as a fast refund by mail. We cannot let the tourists hang in for two or three months waiting for a refund, because it is amazing how word spreads that you have to wait a long time to get it. We have to look at how to get that money back into the hands of the tourists in a fairly smart fashion.

Mr Etele: Just to add to that, in Hamilton, for example, one of our hotel owners is very heavily involved as well in trying to look at simplifying the forms. The key elements here are that it has to be simple and it has to be convenient. If you do not have those ingredients, then what will probably end up happening is the tourists will come up on a trip but they will be reluctant to come back the next time. As we all know, the tourism trade in Ontario and Canada has dropped for whatever reasons, perhaps the dollar or service. I do not know if all the figures are in, but that would be the key in developing any kind of system and then selling it to the tourists, because it has to be, as you said, a simple sign like, "Come on in here, fill in this very simple form and you will get your dollars back immediately."

Mr Duignan: I could not agree with you more. One final point, the signs I saw at the store last night say people from other provinces can also apply to get the rebate on the PST, so I think that is the start of a good sign.

1120

Ms Harrington: I do not know where to start here. I represent Niagara Falls and of course we have a downtown board of management which resembles very closely what you are describing. We have had a physical renewal of the downtown, which looks lovely. I very much believe the downtown is the heart of the whole community and you cannot let it die. It has to be vibrant and that will then have ripple effects on the rest of the community.

First of all, the radio announcements and informing the public of the problem and what they can do about it is good. I am just a little afraid, especially in my home town, that people will say: "You cannot tell us what to do. We have this right and this option to shop wherever we want." I think you have to be a little careful. People have to realize for themselves how it will impact them; their son's baseball team is not going to be sponsored by the local merchant and all of the other ripple effects of a dying business community. I really hope people will see it for themselves, and somehow we have to encourage that vision.

I wanted to question the bargains in the United States. If somehow it can be brought to light that a lot of the things that maybe are seen as bargains or drawing cards to get you over there, once you get there and spend on other things, in the end I do not believe in many cases that people are actually making great savings. I think it is a façade in some cases that these places are cheaper. When you look at the whole picture, I do not think there are as many bargains as are claimed.

Finally, what your organization is involved in, downtown communities, is the whole answer to this. We have to see all of our cities as healthy communities; that is, the different sectors in the community, whether they are the social agencies, industry or tourism and business, all have to work together. Things seem at this point rather discouraging, but I guess I am an eternal optimist. I think things have to turn around soon, and I do not know what you can suggest to us that can help. You have made some suggestions here, but I would like to say it is very important for the communities and the merchants themselves to get together and be part of the community as well.

Mr Etele: I agree with all of your sentiments and you are quite right that what seem to be bargains in the United States may not be so. However, just recently—and there will be copies and I hope you have them or will have them soon—I think in yesterday's Hamilton paper, Buffalo Place, for example, has the dollar at par, so there is a tremendously aggressive campaign to lure tourists down to the United States. You are quite right; when they get there, you cannot return things, there are all kinds of other problems, so in the final analysis the time you took may not be to your benefit if, let's say, you save \$50. It negates itself. However, they are banking on the fact that when you are there you are going to go into their restaurants, have dinner and a drink or whatever and you are going to buy gas, and in essence it still works. It is a loss-leader kind of approach in terms of their marketing.

However, on the positive side we have companies like Bata here in Canada. I do not know whether any of you have seen the campaign, but I have also got a little article in there talking about the republic of Bata. I think it is fantastic. Here is a company that is aggressively saying, "We are going to take American lines that are made in Japan"—I think these shoes are all made and manufactured in Taiwan and Japan—"and market them through brand names and basically try to structure our pricing so that, including all taxes, you are paying the equivalent of the American price." That kind of business approach should be encouraged in whatever form we can, both from a legislative point of view if possible, if there are restrictions, and any other way perhaps. That is relatively new, and in fact I had just stopped into our own Bata store in downtown Hamilton and noticed all of these signs, the cost comparisons and everything else, and it was excellent. We have to encourage that from our independent businesses.

Again, I am now referring to the people we represent who are the independent business owners. We are not now talking about large franchise operations that are, let's say, operated out of Toronto, Montreal, Vancouver or wherever. We are now talking about the mother-and-father operations, independently owned, people who can do these kinds of things very effectively or pattern their activities effectively after a company like Bata. If Bata can do it, then other retailers should be able to look at it, unless of course we are looking at economies of scale. We might perhaps look, as a government, in terms of some tax rebates, for example, for the very small businesses that are paying X dollars in tax but cannot take advantage of the

volume discounts that, say, a Loblaws Superstore or Bata can in the marketing of its particular products.

One example I can give you at this point to shore up that point a little stronger is a very small florist, mother-and-father operation. A couple ran it with one son in Hamilton. It started off very successfully, they were making a little bit of a profit margin. I spoke with them about two months ago. He indicated to me that because there were fewer suppliers in the market selling flowers, unless he purchased a certain volume of flowers he would have to pay a premium. For the small operator, I will tell you, it killed him. He could not afford to pay the premium and buy the volume because he could not sell it, so eventually he looked at his bottom line and said: "Listen, there's not enough profit margin for me to stay in business. I'm not making any money." Therefore, he closed his doors before he ran up any debt, so that is a credit to him.

Perhaps for those kinds of businesses, where two, three, or four people are employed, we might look at some tax concessions, because these are the people who are really hurting the most.

The Vice-Chair: Thank you. As they say in the trade, we have technical difficulties and we need about five seconds to correct.

Mr Drainville: Actually I will take no time at all. I just wanted to give my apologies to the presenters. I was in the House speaking and I could not be here for your presentation. There was no lack of respect for you, but I had other duties to perform before I came here. I just wanted you to know.

Mr Duignan: I have time for one brief question. You raised a very interesting point: volume selling and how it excludes the small retailer from getting the discount. Is that a major problem?

Mr Etele: It is becoming a major problem in that you are now seeing a trend in business generally where the large companies—I think it is still happening—were buying up smaller successful companies, getting larger and larger, reducing the competitiveness of the independent enterprise. The examples I can think of are, as I mentioned, the shoe store—the flower business is the best example I can speak to, because that is one I have recently had dealings with. There used to be, I think, 10 suppliers for flowers, from medium to large suppliers, growers of certain types of roses and so forth.

There are two problems here. One is that a number of them have gone bankrupt so there are fewer suppliers. They are selling now to these street vendors. Now there is another issue you have to contend with here as well: These street vendors buy up bulk volumes of flowers, whip them into their cars, set up shop at the corner of Don Valley and whatever and sell them at very reduced costs because there is no overhead. It is disastrous for people in the flower business, the small retailer, let's say in our particular case in an urban centre where he has overhead, he is paying business improvement area levies, business tax, a premium for his product and there is virtually no profit margin left.

Even the floral vendors on the street are making a bit of a profit margin. Probably just enough to survive, but they are not raking it in, as it were. These are issues I think should be looked at, because those are unlicensed, for the most part, in terms of street vending. What does that do to the relationship of those businesses operating correctly? This is again the human race's sort of trend to try to survive: You now have people renting a hotel room and bringing in a whole bridal show. It basically does not help some of the bridal salons that are operating 365 days out of the year. So you are getting that kind of activity on the increase at this point because it circumvents some of the tax implications of paying your business tax, having a permanent location and paying BIA levies.

We represent an organization that virtually taxes itself. We can have either a zero budget, where nobody pays any extra—they decide themselves by a proper board—or they can have a budget and then they can spend that dollar themselves. There are some very interesting trends here and it is not a simple issue. It has to be looked at very carefully.

Mr Duignan: So in fact, if the small independent retailer cannot get access to a fairly competitive price from the wholesalers, no matter what we did the problem would still exist.

Mr Etele: Yes, that is true. But it is a trend in the society in a sense to homogenize things, to sell in bulk. It is cheaper. Again, we are driven not only by price but service as well. Both are equally important components. For somebody who has just been laid off, for example, it does not matter whether it is made in Canada and it is \$50 more expensive. If it is cheaper for him to buy it somewhere else in Bargain Harold's or in the United States, that is where he or she is going to go.

Mr Duignan: I have noticed that the large supermarket chains are going to these club packs, starting to buy in volume—the Price Club. You do not go in there to buy just one item, they are wrapped in fours or sixes or big volumes.

The Vice-Chair: Thank you, gentlemen. We appreciate your presentation, and you can be sure you will see a copy of our report when it is complete. Thank you very much for coming today.

For the information of the members of the committee, the next thing we intend to do is to discuss our report. Do members have a copy of the draft report with them this morning? If you do not, we will see you get them. The clerk will distribute additional copies to those members. With the wishes of the committee, do we want to have this discussion in camera, or how should it proceed?

Mrs Y. O'Neill: The writing of the report usually is in camera. It just gives us a little bit more leeway.

The Vice-Chair: That is the usual fashion. I just wanted to get consent. I guess we have consent.

Agreed to.

The Vice-Chair: The committee will now go into camera until 12 noon.

The committee continued in camera at 1133.

CONTENTS

Thursday 27 June 1991

Cross-border shopping	G-979
Canadian Federation of Independent Business	G-979
Ontario Downtowns Inc	G-984
Continued in camera	G-988

STANDING COMMITTEE ON GENERAL GOVERNMENT

Chair: Mancini, Remo (Essex South L)

Vice-Chair: Brown, Michael A. (Algoma-Manitoulin L)

Abel, Donald (Wentworth North NDP)

Bisson, Gilles (Cochrane South NDP)

Drainville, Dennis (Victoria-Haliburton NDP)

Duignan, Noel (Halton North NDP)

Harrington, Margaret H. (Niagara Falls NDP)

Mammoliti, George (Yorkview NDP)

Murdoch, Bill (Grey PC)

O'Neill, Yvonne (Ottawa Rideau L)

Scott, Ian G. (St George-St. David L)

Turnbull, David (York Mills PC)

Clerk: Deller, Deborah

Staff: Rampersad, David, Research Officer, Legislative Research Service



Ontario

G-25 1991

G-25 1991

ISSN 1180-5218

Legislative Assembly of Ontario

First Session, 35th Parliament

Official Report of Debates (Hansard)

Monday 29 July 1991

Standing committee on general government

Closing of land registry offices

Assemblée législative de l'Ontario

Première session, 35^e législature

Journal des débats (Hansard)

Le lundi 29 juillet 1991

Comité permanent des affaires gouvernementales

Fermeture de bureaux
d'enregistrement immobilier



Chair: Remo Mancini
Clerk: Deborah Deller

Président : Remo Mancini
Greffier : Deborah Deller



Table of Contents

Table of Contents for proceedings reported in this issue appears at the back, together with a list of committee members and other members taking part.

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at (416) 325-7400.

Languages in Hansard

Hansard reports all debates in English or French as spoken by the participants. It does not translate remarks made in either language. Headings and tables of contents reflect language use.

Subscriptions

Subscription information may be obtained from: Sessional Subscription Service, Publications Ontario, Ministry of Government Services, 5th Floor, 880 Bay Street, Toronto, Ontario, M7A 1N8. Phone (416) 326-5310, 326-5311 or toll-free 1 (800) 668-9938.

Table des matières

La table des matières des séances rapportées dans ce numéro se trouve à l'arrière de ce fascicule, ainsi qu'une liste des membres du comité et des autres députés ayant participé.

Il existe un index cumulatif des numéros précédents. Les renseignements qu'il contient sont à votre disposition par téléphone auprès des employés de l'index du Journal des débats au (416) 325-7400.

Langues paraissant dans le Journal des débats

Le Journal des débats rapporte en anglais ou en français les débats, selon la langue utilisée par les participants. Les remarques faites en l'une ou l'autre langue ne sont pas traduites. La langue des en-têtes et de la table des matières reflète la langue utilisée.

Abonnements

Pour les abonnements, veuillez prendre contact avec le Service d'abonnement parlementaire, Publications Ontario, ministère des Services gouvernementaux, 5^e étage, 880, rue Bay, Toronto (Ontario) M7A 1N8. Par téléphone : (416) 326-5310, 326-5311 ou, sans frais : 1 (800) 668-9938.

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON GENERAL GOVERNMENT

Monday 29 July 1991

The committee met at 1100 in room 228.

CLOSURE OF LAND REGISTRY OFFICES

Consideration of the designated matter pursuant to standing order 123, relating to the closure of 14 land registry offices.

The Chair: I would like to call the standing committee on general government to order. The committee has scheduled 12 hours on a motion that had been presented to the committee some time ago, the matter designated pursuant to standing order 123 relating to the Ministry of Consumer and Commercial Relations decision to close 14 land registry offices. That is the matter Mr David Turnbull has put before the committee as one of the opportunities under standing order 123 to look into a subject which may be of interest to any particular member or party.

We have a full slate of presenters this morning and also this afternoon. We are going to spend tomorrow on this matter also.

Mr B. Murdoch: Before we go on, I would like to move a motion.

The Chair: Mr Murdoch moves that this committee request that the Minister of Consumer and Commercial Relations attend these hearings on the closure of the provincial registry offices and that when the matter comes to a vote, we hold a recorded vote on this motion.

Any discussion on the motion?

Mr B. Murdoch: I think it is imperative that the minister be here to hear the discussions on this matter because it is an important matter to a lot of areas in Ontario. I just think this is her doing, and if she is not here to hear what we have to say about it, I do not think the impact will be as great. I feel that she must be here.

The Chair: Any further discussion?

Mr B. Murdoch: Not at this moment; maybe some of the rest.

Mr Ferguson: I have a number of comments I would like to raise on that. First of all, I do not think it is reasonable under any circumstance, where you disagree with the government on one of its cost-cutting measures in order to ensure efficiency, that you immediately ask the minister to appear. I do not know if the minister can share with us any more information than has already been shared to this point in time.

I want to assure the member opposite that in fact the minister has every intention of reading the committee minutes and consulting with members of the committee on what is a critical issue, an important issue, facing some municipalities throughout Ontario.

The minister, in her statement to the Legislature, clearly outlined why she is undertaking this measure. It is not just this ministry, but it is a combination of efforts

among many ministries. That is the reason we are looking and planning to proceed with the closing of some offices. Some of the offices, as she has already rightly explained, are not the most efficient. Efficiencies can be gained.

I think this begs, of course, a broader question and a much larger question any time any government of any political stripe tries to effect some efficiencies. Obviously there is a cause-and-effect relationship and some of those on the receiving end of that effect are not pleased with the government's decision. However, I think if you look at the big picture in a much broader context, you certainly will recognize that it does make sense, particularly when you look at the bottom line.

I have received many calls on this matter. I met with the mayor of Cambridge on this matter and have spoken to her, as well as some of the legal counsel who operate in Cambridge. They have outlined their concerns as well, and it is the old alternative that is always presented: "Well, you can cut somewhere else." The fact of the matter is, no matter what you cut, no matter what efficiencies you try to put in place, somebody is going to be affected somewhere and not everyone is going to stand up and applaud the decision. I think we all know that.

The minister is on record as stating that. She has put forth the reasons and the rationale behind it and, quite frankly, I just do not see at this point any good reason why we should ask the minister to come in and appear before the committee and reiterate what everybody here knows. We know her position. She has outlined her position, I think, very succinctly, very concisely.

In all fairness, we did not receive any notification that this motion would be brought forward. If you want to deal with the motion now, that is fine. I am going to ask for a 20-minute adjournment then, which is going to put the schedule right back and you can plan on being here later today, which certainly is not a problem with our side. But I am going to ask for a 20-minute adjournment if you want to deal with the motion right now, until some of our individuals who are late in arriving, for some very good reasons—I want to reserve my right to adjourn for 20 minutes until we get our members in place.

Mr Tilson: I am disappointed that Mr Ferguson is suggesting he is going to delay these proceedings. Our concern from our party is that the whole process be speeded up.

Mr Brown: On a point of order, Mr Chairman: I am concerned that this is taking time from the 12 hours we have to debate the actual substance, so could you inform me as to whether the time being involved in this debate right now is part of the 12 hours?

The Chair: This is part of the 12 hours.

Mr Tilson: There are a number of things that we do not know. Since the minister made her statement in the House, there have been a number of articles in the press, some of which have been distributed to us this morning, specifically the *Law Times*, where a number of questions have been raised with respect to what the real costs are. We do not know what the real costs are. We do not know what the costs are for closing, for moving, for setting up new facilities. Are they going to have to expand the facilities that these registry offices are moving to? What new staff is going to be hired?

There have been very serious allegations made with respect to ministry staff. There is the issue of loss of employment. There is the overall effect of this on the financial aspect, on the budget. There is the threat of litigation. There has been a threat specifically out of the *Law Times* that there may be litigation as a result of all these proceedings.

There is the overall issue of the cost to the consumer. There are the difficulties and the confusion, as reiterated I think in the editorial of the *Law Times*, in regard to specific legal problems that one set of lawyers in a particular area may be aware of in a particular area around a registry office, whereas if you move to an area a substantial number of miles away, those problems may not be found because of the specific knowledge of those lawyers in that area. I can tell you that when you get into encumbrances and road allowances and rights of way, those are very difficult issues.

All of those questions have not been dealt with by the minister and, accordingly, I think it is most appropriate that the minister attend this committee and answer these comments that are being made in the press and that are about to be made in these hearings.

1110

Ms Harrington: First, this time, according to our agenda, is to hear the guests we have invited, and I think it is very appropriate that we make sure we do that. Second, I would assume that a request that a minister come should have been made before this point in time, since we only have two days for this matter. I would have assumed that for all the guests who have been invited, at the time they were invited the minister would have been invited as well, and her staff should have arranged such. At this time I believe she is in the Maritimes, so it is just physically impossible.

I would respectfully request that the member withdraw the motion for several reasons, but it is the mandate of this committee itself to deal with the issue and I would presume to bring this committee's recommendation to whom-ever, including the minister.

Mr Jordan: I really believe I would have to support the motion because the minister's analysis relative to Lanark county is flawed. The analysis, as I understand it, only refers to the Almonte registry office relative to Lanark county. It does not take into consideration the fact that it serves part of West Carleton, Kanata and the Ottawa district, so if the actual activity of the Almonte registry office was to be part of the analysis, I think the minister would understand the concern that the people from Almonte and district have.

The other thing is that the minister was invited personally by myself, in company with another member, to this committee. She at that time was doubtful she could attend, but she was aware of it and we verbally discussed it, just as we did in the House relative to when she said, "I'll have the staff review the analysis of Almonte." This is again verbal, which was never confirmed to me, but I would just like to make that point. I think the minister would be well to have the extra information that is available, and perhaps be able to ask the people from Lanark some detailed questions.

Mr Arnott: I would just like to add one very brief comment. I definitely feel that the minister should be attending to listen personally to these proceedings. There have twice been local meetings, public meetings in the last couple of weeks in the communities of Arthur and Durham to generate some opinion to determine what the local people feel about the closures. Ministry staff have been invited to both. They declined to attend both. There is tangible evidence to suggest that the minister is not prepared or willing to listen, and I think she had better start.

Mr Brown: I am surprised that the government is taking this view that it does not wish to have the minister appear, or at least be here at the committee to hear what is being said. It seems to me that it means this government has made up its mind and does not want to listen to the people of Ontario or the people who are coming before this committee.

Having the minister come perhaps might be a useless exercise. It appears from what we have heard from the government benches so far that they do not intend to listen to what is being said here by the people and by the two parties in opposition, that it is a foregone conclusion and maybe the next two days is just a lot of flapping of the gums, so to speak, without a whole lot of real useful result.

Anyway, we would be supporting a motion to have the minister appear and listen to this committee and what is being said here, because we think that in good government the minister should hear what is being said in the committees on this important issue.

Mr B. Murdoch: Just to wrap up, since it was my motion, I feel the minister should be here to justify her actions. She has made statements on the floor that all counties will have a registry office. This is not true; some will be without them. She has had lots of time to set this up. We knew this a month ago. It is just appalling that the governing party would say that she does not need to be here. I thought that is what these meetings are all about, for people to understand and find out what is going on. I am really upset that they would even think she should not be here.

Ms Harrington: I would like to clarify the record. The government members would certainly be most pleased if the minister were here. We have no particular objection to that. As you know, ministers are very busy, and for any ministry, any ministry at all, the staff or deputy minister, etc, would certainly be able to do that job of bringing the message directly to the minister herself. That is in fact what their job is.

The Chair: Other members who have already spoken wish to speak again, but I think there has been full discussion. We have only 12 hours to do the public's business.

Mr Ferguson: Just as a point of information—I do not want to prolong the debate on this.

The Chair: I am afraid we are going to get into a full second round and I do not want to.

Mr Ferguson: Just as a point of information for the members—

The Chair: Order, please. I am not going to allow any further discussion because everyone, every party has been allowed full discussion. We have only 12 hours. There has already been a request that we delay the vote for 20 minutes, which is going to come off the 12 hours.

We have people who have come to Toronto, some from long distances, and others have interrupted their own schedules, to make presentations to the committee this morning, and we are going to try to hear everyone who has been put on our schedule. I apologize to all of my colleagues for not allowing each and every one of you to have a second chance at this discussion, but the first thing we are going to have to decide is whether or not we want the 20-minute recess as has been requested. Do you want the 20-minute recess?

Mr Abel: Absolutely.

The Chair: That is fine. The committee will vote on this motion at approximately 1132. The committee stands adjourned for 20 minutes.

The committee recessed at 1117.

1132

The Chair: The standing committee on general government is called to order. I would like the clerk to read the motion as put before the committee.

Clerk of the Committee: "Mr Murdoch moved that this committee request the Minister of Consumer and Commercial Relations attend these hearings on the closure of the provincial registry offices, and that we hold a recorded vote on this motion."

The Chair: All in favour? Keep your hands raised until we call your names.

Ms Harrington: On a point of clarification, Mr Chair: I would ask the Chair if he would explain the circumstances of the minister's whereabouts at this point for the record.

The Chair: I do not think it is the position of the Chair to do that, but if any committee member wishes to do that after we call the vote, I will certainly allow it. The whereabouts of any individual member of the assembly is not something that directly involves the Chair.

The committee divided on Mr Murdoch's motion, which was negatived on the following vote:

Ayes—5

Brown, Conway, Fawcett, Murdoch, B., Tilson.

Nays—6

Abel, Drainville, Duignan, Ferguson, Harrington, Mammoliti.

The Chair: Mr Ferguson on a point of privilege.

Mr Ferguson: Mr Chair, it is not on a point of privilege. It is for the information of this committee. The minister currently is with her ailing father in Labrador. So a decision, let me tell you, would be academic at this point in any event.

Mr Tilson: Mr Chair, I think I would rather have cool air than noise, but I am having difficulty hearing.

The Chair: We will have silence, from the machine, I mean.

Mr Tilson: Yes.

Mr Drainville: Do we need to repeat that so people hear that, Mr Chair?

The Chair: Yes. Ms Harrington?

Ms Harrington: Just for the record, I understand from talking to ministry staff that the minister had wanted to be here. Her father had a heart attack and that is where she is at this time. Thank you.

The Chair: The first presenter of the day is the Canadian Bar Association—

Mr Abel: Sorry, I had my hand up. I guess you did not see me. In light of what has happened, if I may, I would like to present a motion to rearrange the agenda. We have the assistant deputy minister here and I feel it would be a benefit to all if we heard what the assistant deputy minister had to say first. It would answer a lot of questions and deal with a few misconceptions.

The Chair: My understanding from looking at the schedule is that on Tuesday, July 30 at 2:30 pm Art Daniels, assistant deputy minister, is supposed to make a two-hour presentation to the committee from 2:30 to 4:30. I do not know how we are going to get a two-hour presentation made now when we have a list of presenters already in our audience waiting to come forward. Do you want to reconsider your motion?

Mr Abel: No, sir, I do not.

The Chair: The Chairman will follow the wishes of the committee, but I want to inform everyone that if your motion carries, everyone in the audience who had planned to speak, who made arrangements through the clerk to speak, their arrangements are no longer going to be valid. Are you sure you want to do that?

Mr Abel: I understand the situation.

The Chair: Just one second, please. Could you read your motion again?

Mr Abel: That the agenda be rearranged to allow the assistant deputy minister to give his presentation.

The Chair: I do not have a copy of your motion, but it has been moved by Mr Abel that the assistant deputy minister—I am assuming it is Mr Art Daniels—be given permission and that the schedule be changed so the gentleman could make the ministry presentation at this point. Any discussion on the motion? Mrs Fawcett?

Mr Fawcett: Do you mean we are going to hear a two-hour presentation by the assistant deputy minister? Some of these people have travelled a long way and they were here under the impression that they were going to be heard at the correct time. They are already late and I think this is just not right at all.

Mr Abel: The motion delayed it—

Mr Fawcett: Two wrongs never made a right.

Mr Tilson: Mr Chair, would you clarify? You say there is a ministry person coming tomorrow?

The Chair: Mr Tilson, the agenda will show that tomorrow afternoon at 2:30 pm Mr Art Daniels, assistant deputy minister, registration division, will be making a two-hour presentation. I believe the schedule was set up in such a way that the ministry officials would come near the end of the hearings so the committee could hear all of the depositions from the general public and then pick up new information, which is the normal course of business, and that the committee members would then be able to question the gentleman who was going to be before us. That is my understanding.

Mr Tilson: So as I understand it, this individual wishes to speak to the committee now, as opposed to 2:30 tomorrow afternoon?

The Chair: I do not know if that gentleman wishes to speak to us now. All I know is that there is a motion on the floor asking that the gentleman speak to us now.

Mr Tilson: I guess my question to the mover of the motion is, what about all these people? They might as well not have shown up this morning. What are we supposed to do with them?

Mr Ferguson: You should have asked that question when you got into—

The Chair: Can I have order, please? Ms Harrington?
1140

Ms Harrington: The presentation that we would wish to have at this time, and I just spoke with the gentleman from the ministry, is 25 minutes. Unfortunately the delay has already been 40 minutes. We would like to have this at this time.

Mr Tilson: Just because.

Ms Harrington: No.

Mr Tilson: Why? What is the reason?

Mr B. Murdoch: Why would you change the agenda?

Ms Harrington: Because we wish to.

Mr Tilson: Just because.

Interjection: "We are the government party. We do what we want to."

The Chair: Mr Tilson, you still have the floor.

Mr Tilson: I think we are all interested in hearing from the member of the ministry. There is time this afternoon, at 5:30, after Terry Moore. I wonder if the ministry person could address us later this afternoon, because this is going to give everyone in this room a great deal of difficulty.

The Chair: Mr Tilson, are you—

Mr Tilson: My question is whether or not that individual would be prepared to speak at the end of the day.

The Chair: Sooner or later someone will answer that question.

Mr Tilson: I know you are out there.

The Chair: Is there anyone else who wishes to speak to this motion? Seeing none, I am going to ask for a vote on the motion.

All in favour of Mr Abel's motion that Mr Art Daniels be allowed to speak at the present time for 25 minutes, please raise your hands. All opposed to the motion?

Motion negatived.

The Chair: The Chairman will carry on with the agenda as outlined by the full committee.

CANADIAN BAR ASSOCIATION—ONTARIO

The Chair: The first presenter of the morning is the Canadian Bar Association, Garth Manning, president. Mr Manning, the committee has allotted 30 minutes for your presentation. You may wish to use all or part of your 30 minutes. Please have a seat and relax. The committee members will divide up among themselves whatever time is remaining from your presentation for questions and answers. Please identify yourself for the record.

Mr Manning: My name is Garth Manning. I am president of the Canadian Bar Association—Ontario. With your permission, Mr Chairman, I will probably use less than the allocated 30 minutes in view of what has occurred in the last 45 minutes. I will take you through my submission, which is in front of each member of your committee, and I will allow as much time as I can for questions if that is acceptable to you and your members.

This association represents over 16,000 lawyers around Ontario. It is by far the largest organization representing the interests of lawyers. I happen to be a real property lawyer with more than 30 years' experience. While I am one of those unfortunate lawyers who practice in Metropolitan Toronto, my own experience extends far beyond those boundaries over those years.

This is not a lawyers' issue. It is not an issue of inconvenience to lawyers; it is an issue that affects the public in the most direct way in 12 communities and it is an issue of service to the public.

It was on May 7 that these offices were announced as being closed. There was no prior consultation despite the frequently expressed views of the Premier and of the Attorney General very directly to my association about the need for prior dialogue and input on any matter affecting the administration of justice. This particular minister in this particular ministry saw fit to have no prior consultation from a number of groups which are experienced in the field. Two days afterwards, I wrote to her and said, "Hey, please wait a moment and let's have a meeting." Her office first denied she had received my letter, which was hand-delivered. It was eventually replied to over two months later with a letter that frankly, and with respect, says nothing.

My association has contacted the president of every law association in the 12 affected areas. We have no objection

to, and we are not going to address, Ottawa and Toronto, which are among the 14.

We have contacted every MPP in those areas and have received in reply more mail, more contacts, more articles, more editorials, more news stories, more complaints than on any other issue that I can remember in my own living memory and knowledge of my association. All of that contact, all of those reactions, were opposed to the closings.

My association and the association which represents separately the presidents of every local law association in Ontario have each passed motions opposing the resolutions where they are demonstrably against the public interest.

I have given you some basic statistics for the 12 offices concerned. For example, Morrisburg is in S-D-G & East Grenville. It is about 40 kilometres one way from Cornwall, with which it is to be integrated. The second example of Port Hope, obviously in Mrs Fawcett's riding, is about 45 kilometres one way from Peterborough, 80 from Lindsay and 15 from Cobourg. The reference there to three different places is because if Port Hope closes, its records will go to three different land registry offices. I have given you the equivalent information for all of the 12.

By far the largest direct users of the land registration system are lawyers. Probably about 98% of the thousands of people who troop through the doors between 9:30 and 4:30 every working day are lawyers. The next largest group is surveyors. Their association's president, I believe, follows my presentation very shortly. Local governments use it a lot. Members of the public use it a great deal. Those of us who are lawyers, surveyors and government officials are not doing it in our own right; we are doing it for the public who are our clients and whom, in legal matters for example, we represent.

All of you are conscious of the fact that members of the public really only come across the administration of justice in two very direct ways. One is if they are called as jurors or have to face a driving charge, for example, in court. The other is if they buy or sell or refinance a modest house.

Taking a house purchase as an example, under the present system and until technology has caught up with reality, there is only one way a lawyer can properly fulfil his or her function in acting for a client buying a house. He or she has to go to the registry office twice, at a minimum. The first time is to search title. There are certain parts of Ontario, of which Cambridge would be an example, where titles are complicated and sometimes it takes more than one trip to do a search properly. You have to take a second trip several weeks later, sometimes several days later, to close the deal. There is no other way of doing it until every land registry office is computerized and until the records are accessible from terminals in lawyers' offices. We all know that strides are being made in the technology, but the ultimate goal to be reached is still decades away.

Lawyers charge fees on the basis of time. They also charge for out-of-pocket expenses which they properly incur, and their fees, through no fault of ours or yours, are subject to the GST.

The current rate per kilometre for using a car to drive from the office to a land registry office is somewhere between 25 and 30 cents, depending on where you practise. I

will give Morrisburg as an example. In future, if you are a Morrisburg lawyer, you or a member of your staff will be driving to Cornwall on those two trips. You will be spending extra time. You will be paying more for gasoline, insurance and repairs. All of those will be passed through to the ultimate consumer, who is the client.

I have given you some examples on page 4 of our brief. I am not going to go through them in any greater detail, but I can tell you that a bunch of lawyers like us do not have the necessary expertise to do the arithmetic to demonstrate whether the additional burdens, of which I have given you a very clear-cut example, will cumulatively—what the final cumulative figure will be. I am absolutely certain, and so should you be from your own common sense and experience, that the annual figure of increased cost, for only the two heads which I have underlined, will far exceed the \$1-million annual saving and the possible \$8-million capital outlay to which the minister referred in her very curt announcement of May 7.

1150

It is my submission to you that if these closings proceed, all they will do is, one, add to the cost of the system, and two, transmit the cost of their system from taxpayers generally to a very large segment of taxpayers which has the temerity to buy or to sell or to refinance small properties, both residential and commercial. We are not talking about Bay Street in Toronto. We are talking about real people in real localities in real parts of southern Ontario extending from Glencoe in the west to Russell in the east.

You would not expect a bunch of lawyers only to advocate a position without pointing out, in fairness, part of the other side. I have given you an example towards the foot of page 4. If Port Hope, for example, closes, the Peterborough lawyers may not be displeased. If they have a deal where otherwise they would have gone to Port Hope, they will now not have to make that trip, because some of the records are going to Peterborough, so they will save time and save money in that one narrow case. However, instead of going to Port Hope, they may have to go to Lindsay or they may have to go to Cobourg where they are acting on transactions, to which the Port Hope records will be transferred in addition to Peterborough.

On the top of page 5 I emphasize again what every taxpayer and every politician knows, that governments of all levels use tax revenues, quite rightly, to provide the infrastructure for many things which all of us take for granted and which the public has a right to. Obviously, air travel, road travel, rail travel are very simple examples. So is the administration of justice. The provision of land registry offices and staff falls into this category, and I repeat what I said when opening, that the concept is necessary service to the taxpaying public not the perceived convenience of the government or of its civil servants, and all of this despite the fact that any given land registry office may not be an individual profit centre, based on its own merit or demerits.

I have given you individual examples for only two of the 12 offices affected. They are not exclusive, they are merely examples, two out of 12. I have given you what I think about Prescott from information I have received and checked. Almonte is perhaps in a class of its own. The

former government established a need for a new land registry office in Almonte, for which the taxpayers paid almost \$1 million and which was opened with great fanfare almost exactly one year ago. It is modern; it is safe; it is up to present-day standards; and the suggestion there is that it be closed and that the records be moved to Perth, to the south. Almonte is owned by the taxpayers. Perth is leased. It is an older building. It is not fire-safe. It will need changes to take on the new records. Those are only two examples, and no doubt you will raise questions on other individuals.

In my conclusions, I have told you quite bluntly that all 12 communities, as I have seen their reaction, are shocked by the thoughtlessness of the minister's announcement and by the utter lack, and apparently the lack of perception, of the need to get input from communities and from people who will be very directly affected. That shock is reflected in the manner I described to you earlier, and I repeat that I have never ever seen such an adverse reaction to any topic in which my association has been involved in recent memory.

I repeat again: This is not an issue of lawyers or the convenience of lawyers. It is a public issue and one of service and cost to taxpayers. In the absence of the consultation which one might have expected to have taken place, and in the absence of any proof that the proposed closings will accomplish anything except major inconvenience and extra cost to the public, my association is at this time totally opposed to the proposed closings.

It is one thing to be opposed, and I hope I have told you why; it is another thing to suggest what should be done. Our recommendation is very simple. In the strongest possible terms, we recommend that the proposing closings of 12 land registry offices not be proceeded with and that the minister and her staff should go back to first base—I have said dressing room, because I prefer hockey to baseball, but the simile is the same—and start all over with consultation with other people who know what they are talking about—I am not obviously only talking of lawyers; I am talking of a huge constituency—and then start all over again.

I offered the minister all the help my association can give. I offer it again. The president of the County and Districts Law Presidents' Association has done the same. I am authorized by him to repeat his offer.

I am not stupid enough to suggest that a case cannot properly be made for the closing of one or two of the 12 suggested candidates. If, in fairness, consultation takes place and a case is made based on demonstrated facts backed up by demonstrated evidence, then any fair person will go along with such evidence and such decision. In this case, nobody has been given that opportunity. That is why my association recommends it be stopped, we all go back to the drawing board and we start all over again.

The Chair: Thank you, Mr Manning. We have about three to four minutes per party to divide up.

Mr Tilson: I must say, Mr Manning, we are honoured that someone of your stature would come and address us on an issue such as this and reiterate your offer to consult with the government and put forward your views, and

certainly the views that you have put forward would hopefully encourage the minister to delay these closings and allow you and others to discuss with her further possibilities.

With respect to the fees, which is something that obviously lawyers have said publicly and you are reiterating—and it is not just lawyers' fees, of course; it is the fees of conveyancers, fees of surveyors, fees of government officials, I suppose, of all levels, fees of real estate agents, although generally they are fixed, but it will affect them, the general public, an owner of a house who wishes just to go and look at his title for personal or historical reasons—the minister has publicly responded to that charge and as much as said: "Tough. The lawyers will get blamed for it, you know, the lawyers raising their fees. It's not our problem. It is the lawyers' problem and the lawyers are the ones who are going to be raising their fees. We didn't cause them to raise their fees." What is your response to that?

Mr Manning: I read that statement, which I think appears in Hansard. I think it is unfair, untrue and unresponsive to a problem caused not by lawyers but by proposals that have not been properly or adequately thought through.

Mr Tilson: I have one other question. Why do you think the government is really making this decision? Is it really over the saving of funds or is it more to centralize?

1200

Mr Manning: I think it would be fair for me to emphasize that my association is utterly non-political and we are not approaching this on any partisan basis at all. We do not deal in politics. It probably fair to say, as a taxpayer and as one who takes an interest in the practice of politics, that this government must properly look everywhere it can to effect whatever economies should be made. My guess would be that this proposal is of such a nature. As such, in fairness, most of us understand what is going on. What we are addressing is the basic unfairness of it, the lack of consultation and the incredibly draconian results it will have on the public.

Mrs Fawcett: It is nice to see you again, Mr Manning. I am very happy you are here today.

One argument used to me was that registry offices should be close to sheriffs' offices. I believe that maybe was so in the past but I do not think it is true now with all of the various computers and faxes and so on that are available. Would you care to comment on that?

Mr Manning: It no longer matters a damn. Where a sheriff's office is not located in close proximity to a land registry office, there are either telephone or electronic links between the two, so proximity is no longer important. It was before technology was not as advanced as it is now.

Ms Harrington: Very briefly, I want to thank you for coming. We appreciate it and your submission.

First of all, the idea of savings is certainly a reality that we are looking at. We do not want to inconvenience the public unduly. That was, I believe, the basic premise of your submission. You also mentioned that an evaluation of all the offices across Ontario—which, of course, I did not do; I am in a different ministry—is certainly a good thing to do, and I think you would acknowledge that there probably are very many which can be either integrated or streamlined

to some extent. I am just wondering if you want to comment further on that.

Mr Manning: The points we were trying to make are (1) the public service and (2) the additional cost which will be placed on the backs of the public, thus, in effect, wiping out any perceived savings to which the minister referred in her announcement.

On the second question you asked me, if everyone goes back to the drawing board and really deals with this on an office-by-office basis and adds other offices in other parts of Ontario whose performance as profit centres might be equal to or even worse than some of the 12 here suggested, there is no doubt at all in my mind that at the end of such a thorough and open process recommendations should probably come forward for something to be closed. I am not prepared, without those recommendations on that, to tell you which, in my mind, they would be. It would not necessarily be any of these candidates. It might be others which have not been considered but might be in the future.

The Chair: Mr Manning, thank you for your presentation.

Mr Manning: Thank you.

TERRANCE CARTER

The Chair: The next presenter is Mr Terry Carter. Mr Carter, we will be following the same procedures. You have been allotted 15 minutes. You can use part or all of that for your presentation or hold some time back for questions and answers.

Mr Carter: I am the president of the Dufferin County Law Association, located just north of Peel. We are not directly affected by the closures, but we do have two counties on either side of us that are. One is Wellington to the north with the Arthur registry office which is being closed, and the other Grey to the north with the Durham registry office. So we do have some effect upon the local county of Dufferin, and I have been authorized on behalf of our law association to speak before you today.

I would like to divide my comments into two sections, first dealing with the specifics of the closures of the registry office, and second about what I believe are some trends that are taking place that should be addressed by this committee.

I sent a letter to the minister back on May 31 of this year indicating the objection which our association has to the closure. We are handing out copies of that letter to you at this point. Just in summation, really the points are fivefold.

First of all, the cost that is going to occur, certainly in the town of Orangeville, county of Dufferin, is going to be a cost which will be passed along to the consumer. It works this way: The registry office in Arthur is now going to be relocated to Guelph, which will double the time and the mileage down to the Guelph registry office. The same thing with Arthur being moved up to Owen Sound: that is going to double the cost. Those costs are reflected in mileage costs, which are disbursements recovered from clients.

Second, if it is too far away, you do not have your own staff go. You hire somebody in that particular area, Owen Sound or Guelph, and again that is a disbursement which is passed along to the public. So any savings you have

with the operations of the relocation of the registry office, I would suggest to you, are going to be in fact absorbed by the public who are going to be using the services through whatever lawyer they have in their particular area. It is unlikely that an Orangeville person buying property up in the Durham area is necessarily going to go to a lawyer up in Owen Sound. He will probably stay in the same area but have additional costs.

Third, I would question the cost saving which is being proposed by the government arising out of the closure of the registry office. A document is a document, and you have to register it. It takes individuals to register and it takes a facility in which to house it. Any relocation of the registry office will still require the same amount of labour. If it is done in the Arthur registry office or it is done in the Guelph registry office, for example, it is still the same thing. You have to have a place to store it, and if you do not have the facility in Arthur, you are going to have to expand the facility in the new location in Guelph, and the same thing with Durham and in Owen Sound. So I would seriously question whether or not there really are going to be any savings at all. I think there may in fact be a cost factor tied in with the relocation of the registry offices.

My fourth point is that these are little, tiny communities—and again, I can only speak of Arthur and Durham; I have been up there myself—that are very dependent for their economic wellbeing upon something as small as a registry office. Arthur has Sussmans Men's Wear, and other than that it has the registry office. The village of Durham does not have much else other than the registry office. Those little communities are going to be terribly affected by the closures. Surely, when everybody is trying to assist during this recessionary time, that is going to be a tremendous blow to those communities.

My last point is that the lack of input was simply amazing. We did not have any input from the local municipalities or the counties or the lawyers or the real estate agents or the paralegals or the surveyors. It was simply an arbitrary decision that was made. I would reiterate the comments of Mr Manning that certainly there needs to be input. There is no harm in input. It would certainly be recommended and welcomed by our association.

What I would like to talk about in the few remaining minutes I have is what I think is a more dangerous matter, a more serious matter. These registry office closures are a problem. There is no question that they need to be reviewed, but I see it as a thin edge of the wedge. I see what is developing is the closure of what is argued to be an inefficient registry office at a later time being argued to close down what are some larger registry offices.

I think Orangeville is an excellent example. The county of Dufferin is near Brampton and Simcoe. Why do you have to have a registry office in Orangeville? Why not bring it down to Brampton? It certainly would be more efficient. The same thing about the court systems. Once you start to argue that it is inefficient for a particular registry office, then you can start to eliminate some of the county court systems such as in the county of Dufferin, such as the court system in Milton; move it into Brampton. There have been discussions about Brampton having a supercourthouse.

Why not try to make it more efficient by bringing everything in together?

Once you start getting rid of the registry office and the court systems, then you do not need to have the county government structure. There is no rationale for it. You might as well have the regional municipality of southern Ontario. It certainly is more efficient to operate from that standpoint. The effect is that we are undermining the whole infrastructure of rural Ontario without even knowing it. I see this as a first step in that regard.

Rural Ontario has worked because there has been the infrastructure there. Surveyors set out the areas back before the turn of the century with the governments in place, the counties in place, the courts in place and the registry office, and now we are starting to chip away. You chip away at some of the smaller registry offices, then you move into the bigger ones, the county courts, the county government situation, and soon you are not going to have the infrastructure you need for rural Ontario.

I do not see this as a policy of any particular government or any politician. I could not imagine anybody following that type of policy. I did not see it in any platform of any government during the last election. I am sure that nobody here would want to see the demise of rural Ontario.

1210

What I am saying is that there are consequences and I am concerned that this is the beginning of that whole process. If you speak with the senior-level public servants who are putting this into place, I would suggest that they probably would argue that this is not the effect. But I say to you that it is.

I have come from a large city, Montreal. I have worked and lived in Toronto for five years. I have been in a rural community now for 11 years. You must have these facilities in place to maintain the Ontario that we know. You see in travelogues of Ontario not just the CN Tower but rural Ontario. You must have your registry office and your county court systems in place.

I fear the senior-level civil servant is putting in place programs that the politicians are really not aware of the effects of. I would challenge all committee members—nothing to do with a particular party—to re-evaluate what is taking place to ensure that we are not losing the heritage of our rural Ontario. I do not think there is an efficiency factor, but even if there is an efficiency factor, these are things we want to preserve and keep in place.

I would challenge you then to look at the control factor of what the senior civil servants are in fact putting in place. I fear we may have the dismemberment of rural Ontario as we know it within my lifetime. I will not be surprised to hear in five or ten years that they are going to be reviewing the efficiency of the county of Dufferin registry office and county court system. I think it is just a matter of time. Even though it is not directly the issue you are dealing with, it is a consequence of the closures, and I think it is a point that should be looked at at the same time.

Those are my comments and I would be happy to take questions.

The Chair: We have time for about one question per party.

Mr Arnott: Thank you very much, Mr Carter, for your presentation. I agree with everything you have said, with the exception of the village of Arthur. I have to defend my home town. There is considerably more in Arthur than what you have characterized. However, we would very much appreciate keeping our registry office, no question about that.

You would have had some experience searching titles in the city of Guelph office. Could you describe how the service levels are at that office and how you feel they may be able to handle a significant new influx of work, given the closure?

Mr Carter: The facility there is absolutely cramped. There is no room. It is an antiquated facility. It is very pleasant, the staff is very good, they do the best with what they have to work with, but the facility is absolutely inadequate even to deal with the city of Guelph, let alone all that is going to come down from northern Wellington from the registry office in Arthur.

Mr Arnott: Would you then presume that if a significant new level of work were to be introduced at the Guelph office, a new building might be required in the next number of years?

Mr Carter: I do not know what else they are going to do. They are going to have to put it someplace. I would think they are going to have to build or relocate. There is a capital cost factor involved. So whatever they are saving from Arthur, they are going to have to pick up somewhere else. It is six of one, half a dozen of another. They are creating expenses back and forth. Again, when I say "they," I do not refer to the government. I do not see this as a governmental issue; I see it as a bureaucratic decision that the politicians collectively are not aware of the consequences of.

I think the minister had no idea of the consequences. She was told probably it is a cost-saving factor, but none of these consequences were identified to her.

Mr Conway: Mr Carter, I really appreciate your submission and I think you make some very interesting points. I am very glad my colleague from Wellington has defended the honour of Arthur, which I do not know as well as he does, but my memory of Arthur and Durham is somewhat more expansive perhaps than your recitation.

Other than that, I think you make a good point. I sometimes think as well, when I hear lawyers speaking—and I do not want to offend any member of the committee, to say nothing of any witness—that a good project might be—I might even do it myself some day—to do a history of the registrars and sheriffs of this province. I think it would be a colourful best seller. I know it certainly would be in my part of Ontario. Thank God governments over the years have had the nerve to shake it up a bit because it was a pretty happy little bit of patronage that I do not think always effected the most efficient kind of public administration that I know my constituents in rural eastern Ontario would expect any government to support.

One of the things Mr Manning suggested, and I wanted to just put this to you as a question, I think Dufferin would be a very good point to ask the question to. Accepting all that you have said about rural Ontario, which I do, but accepting as well that in rural Ontario there are a lot of people who expect governments to be just a little more efficient—and as I say, I think this is an area where over the years efficiency has not always been the order of the day—could you see a productive dialogue between, say, the law societies and any government about making some efficiencies in the name of the general concern about costs?

Clearly, this is cost-driven. I was reading something in the *Law Times* in which Larry Grossman was talking about the happy experience he had—12 years—in sticking his finger into this vise and I do not think he did it a second time. Is there anything that from your vantage point you could imagine as effecting a change that might at the one time satisfy government's management concern about costs and at the same time the very legitimate points you have raised about servicing the communities in Wellington or Dufferin on the points that Mr Manning made earlier, or is it just a dialogue of the deaf?

Mr Carter: No, I think there is always area for improvement. I think any system, including the registry system in Ontario, should be reviewed on a regular basis. I do not think there is any problem with that. In fact, I think there is a lot of merit to be had out of it. What is missing, though, is that dialogue in place that—

Mr Conway: Just give me one concrete example, assuming that we changed very little in terms of the number of registry offices, assuming we did not cut back significantly. Can you think of, just offhand, one thing that could be done—I do not know, there may be none—where some happy civil servant might say, "Yes, this is something that perhaps turns the ship in a slightly different direction"?

Mr Carter: Remember that in Ontario we are working towards the Polaris registration system, which is going to be a totally computerized system. That is the long-term goal that is being worked towards. I do not think there is any question that is going to be a much more efficient operation. If you are asking me what specific things can be done with the current registry system to make it more efficient—

Mr Conway: Without closing or rationalizing in the way proposed—

The Chair: A very quick answer, Mr Carter.

Mr Carter: Without giving it some further thought, I would not want to comment on it.

Mr Ferguson: Very quickly, I want to thank you for taking the time to come this morning. As you know, there is a rationalization taking place out there in the business community, and I am told that to a large extent they are depending on a lot of advice from the legal community which you represent.

In that you or your colleagues in the field are associated with this rationalization that is taking place, why would you be providing advice to the business community on a rationalization and yet coming here this morning and suggesting that the government of Ontario or this level of

government in particular, this provincial government, ought not to be involved in a rationalization of utilizing and deploying its resources in the most cost-effective manner possible on behalf of the residents of Ontario?

The Chair: One minute, Mr Carter.

Mr Carter: Okay, three things. One is that there has not been any input. We are not afraid of input; we are happy for input. Second, what has been done is questionable as to whether there is any cost saving arising out of it. The third point is, what is the cost even though you may have an efficiency of effect in rural Ontario? You have to weigh the two of them back and forth, and that requires a dialogue back and forth. Nobody is afraid of it; we are happy to participate in it.

The Chair: Thank you, Mr Carter, for your presentation.

1220

ASSOCIATION OF ONTARIO LAND SURVEYORS

The Chair: The next presenter this morning is Mr James Nicholson of the Association of Ontario Land Surveyors. Fifteen minutes have been allocated for your presentation, sir. We will be following the same procedure. Will you just identify yourself for the record.

Mr Nicholson: My name is James Nicholson, president of the Association of Ontario Land Surveyors.

I have supplied each of you with a paper prepared for the use of this committee in consideration of the matter before you. I would like to give you some background to touch briefly on some of the matters that are contained in this paper.

The association is a provincially chartered organization mandated to regulate the profession of land surveying within the province of Ontario. As such, we were probably the second largest user of the land registry office system in Ontario. Our present membership in the association is approximately 800, of which 500 to 550 conduct private practice in the private sector.

The association has a proud tradition of serving the public. This year it is observing its centenary.

A lot of the citizens of Ontario believe that the surveyor is linked very closely with the engineering profession. Other than the tools we use on a day-to-day basis, in reality our profession has very strong ties to the legal profession. That is the reason I appear before you today.

Plan surveyors historically have prepared subdivision and now prepare subdivision and condominium plans to be recorded in the land registry office, creating new units of ownership. We also prepare reference plans, expropriation plans, Boundaries Act plans, again all entered in the land registry system.

In the early years of our association, the majority of practices were situated in the larger centres in Ontario and provided easy access to the land registry office and local and county governments. As southern Ontario has developed over a period of years, land surveyors have spread themselves out through the smaller centres, particularly in southern Ontario. This decentralization has permitted the surveyor to become a part of the community, more aware

of the needs of the area, and to deliver survey services on a more personal basis.

In the 1960s, an Ontario Law Reform Commission report recommended that provision be made in the land registry system for the filing of plans. They were called reference plans and were prepared for the purpose of facilitating the conveyancing of complex and complicated properties. The ministry at that time implemented a program of pre-deposit checking of these plans by ministry surveyors located in strategically located land registry offices.

This procedure continued until the mid-1980s, at which time the influx of plans into the land registry system overcame the ability of the ministry to provide this pre-examination on a timely basis. At that time, there was dialogue and consultation with the ministry, and with some seed money provided to the association, the association co-operated and established the survey review department within our association to conduct ongoing review of the surveys and plans entering into the land registry system.

In 1971, the Ministry of Consumer and Commercial Relations commissioned a study to assess the viability of various land registry offices in Ontario. This report was released in 1972 and recommended the closing of 26 land registry offices in northern and southern Ontario. The rationale of this wholesale closure of offices was that they did not meet the criteria adopted and applied by the committee for financially viable operations. The committee also stated that closure of these offices would aid in the computerization of the system. Today, those 26 offices remain open. Twelve years ago, the Honourable Larry Grossman, then the Minister of Consumer and Commercial Relations, decided to close three offices. The opposition and protest resulted in a reversal of the minister's decision.

Why do surveyors care? In many land transactions throughout the province, the surveyor and the solicitor act jointly to serve the parties involved, being the general public. The solicitor investigates and determines the condition of the title; the surveyor investigates and determines the extent of the title.

More lands are entering into the land titles system in Ontario wherein titles are guaranteed and are shown on the face of the register. However, I would have to say that at least 75% of the lands are still held in the land registry system, where the documents are merely a continuing historical record dating back to the time of the crown patents.

The present laws respecting conveyancing usually permit a solicitor to limit his investigation of the historical records to the last 40 years. This is not the case with land surveyors, as many surveys require examination of the historical documents that are on file and may well exceed the 40-year period and may reach back as far as the crown patent.

We suggest that it is the preservation of the historical documents, particularly with the old surveys attached, that are of paramount importance to the surveyor.

In one larger registry office in Ontario, all documents over 40 years have been purged and these were micro-filmed. To obtain one of these documents, one must fill out a requisition, make an appointment to see it, and if you are fortunate, you might get a copy that same day. Also, the quality of the microfilm has left something to be desired,

because the plans now, when produced on microfilm, in many cases are illegible.

The director of land registration advises that to consolidate in larger offices will provide the same high level of service or better. As a user of this system for over 35 years, I do not believe it. In many of the smaller offices the staff has gained and exhibits knowledge of local conditions and local circumstances that are most helpful to the user of the system. Service is provided on a more personal basis and in most cases exceeds the level delivered in the larger offices.

What are the economic realities of the ministry decision? Many of our members, particularly in those small centres, will have added costs and time involved in producing plans and surveys. Estimates received from those affected by this proposal suggest that an extra \$100 could be added to the fee of a survey and, depending on the nature of the service to be provided, additional costs may be required beyond the \$100.

In the competitive market environment we encounter today, surveyors are under pressure to deliver services in the most cost-effective manner. We suggest that the ministry's decision to close these offices will give us no alternative but to pass these on to the public. This in turn will also render the smaller firms in the smaller centres less competitive than those in the larger centres.

We suggest that the closure of the Almonte registry office begs answers not provided by the ministry. Improvement and enlargement of leasehold facilities is not fiscally responsible when the facilities to be closed are government owned.

The majority of the land registry offices in Ontario are profitable. In the larger offices we suggest that the cost of operating those probably is in the neighbourhood of 5% to 10% of the gross revenues obtained through the collection of fees for service and land transfer taxes. We submit that the minister and the Management Board of Cabinet have a duty to return sufficient funds to this system to ensure the integrity of this system.

Computerization is coming; we know that. The Polaris program is being implemented. It is suggested that this program will be in place in eight years. I think that is overly optimistic in the light of past performance.

The minister has suggested that with the closing of smaller registry offices in Ontario computer access points would be made available throughout the larger centres. We submit that these centres are already there and should not be closed. They are presently owned by the government and could provide that need.

In summary, we submit that the integration of Toronto city with Toronto's boroughs and Carleton with Ottawa land registry facilities makes some economic common sense.

Our association has a committee charged with liaison with the ministry and stands ready to fulfil its mandate if given the opportunity by the ministry. Many of our members affected by this decision of the minister are most anxious to have the opportunity to have input into this decision. Together we must ensure that the integrity of the system is preserved and the interests of the citizens of Ontario are well served.

The Chair: Thank you. We have time for one question per party.

1230

Mr Tilson: The Law Times made a comment in one of its editorials that, specifically with legal issues, lawyers in these areas know, to use their words, the lay of the land with respect to searching of titles; for example, discovering encumbrances, road allowances, rights of way; in other words, lawyers in specific areas are able to find these things better than people from outside the areas. Does that same issue apply to surveyors?

Mr Nicholson: Yes, it certainly does. As you work within an area, you begin to know the peculiarities of that area, the problem areas where titles are bad, where old surveys are bad, where they deserve particular attention and require special needs as far as survey services are concerned.

Mr Tilson: Might that lead to errors?

The Chair: I am sorry, Mr Tilson. We have no time for second questions.

Mr Conway: Just a brief question: On page 4, paragraph 3, I note that there is a fair degree of scepticism on your part about the claim made by the director of land registration that the integration and consolidation will effect a higher level of service. Could you perhaps elaborate on your scepticism in this regard, given that you have had long experience in dealing with governments of a variety of stripes?

Mr Nicholson: I find it is no different in most cases. The larger the organization you have in place, the less apt you are to have—the staff have the personal knowledge of the area, as well as being caring in providing the service that is required to be provided.

Mr Ferguson: Just one question, sir: At this point in time, as I am sure you are aware, Kitchener and Cambridge are border communities. A surveyor who lives one kilometre inside the border of Cambridge from Kitchener will now have to travel to Kitchener. In fact there are certain circumstances where that surveyor may be travelling much less distance than previously. So when you make the blanket statement that it could be as high as an extra \$100 per survey, depending on the travelling costs, it really depends to a great deal on the circumstances that currently exist. I just want to ask you, what would happen now with somebody from Tobermory who is in this business who has to make the 200-mile trip to Walkerton? Are you telling me that the person in Tobermory is not competitive with the person in Walkerton?

Mr Nicholson: First of all, I have a map of Ontario with all the practices noted on it, and I can leave it with the committee if you so desire. However, I would say that there are certain areas in the province where costs will not be increased, but there are certainly areas where costs will be increased. As a matter of fact, in the Cambridge area that office was opened by the ministry simply because there were not storage facilities in the office in Kitchener. I am not so sure the situation has changed that much. We are proposing to close Cambridge, and in fact it is providing a

storage facility that the office in Kitchener was not able to fulfil.

Mr Tilson: Mr Nicholson has referred to a map. I think our part of the committee would be interested in having a copy of that.

The Chair: I will certainly make the map available to the committee clerk. We are going to make sure every single member gets a copy.

PATRICK GALWAY, DOROTHY FINNER,
GARTH TESKEY, JONATHON ROBINSON

The Chair: We have a group of presenters scheduled for this time, if you would all please come forward. The committee has allocated 45 minutes for your presentations. We are going to follow the same procedure you have seen this morning. If you wish, you can hold back some time for questions and answers. I would like each presenter to identify himself or herself for the record. I will turn the floor over to you.

Mr Galway: My name is Pat Galway and I am a lawyer in Almonte, Ontario. There are Ms Dorothy Finner, the mayor of Almonte; Mr Jonathon Robinson, with the New Democratic Party in Lanark county, and Mr Garth Teskey, a real estate agent-manager from Almonte.

My remarks will be about 15 minutes. I believe the others have some remarks to make in the neighbourhood of five to six minutes long, and then we would like to reserve some time for questions at the end.

Obviously some time has already been taken by others to speak about things I have in my presentation. I will try to edit that as I go, not to be repetitive; however, I would like to emphasize that I can see right away that part of our difficulty here is that we are the first group to speak. We are talking about a specific situation, not the situation across the province, and I would highlight what Mr Manning has said, that Almonte is in a class by itself in terms of saying, "Please, let's reverse a mistake here." I believe the last speaker said the same thing.

Now, to go to the presentation I have to make, first, I have been a member of the bar for 20 years and I have practised in Almonte for 12 years. Almonte is a town of 4,000 people, with a similar and growing population in surrounding townships. We are the second largest geographic county in Ontario. We are a rural community, but we are also 20 minutes away from the west end of Ottawa. We believe that gives us a rather unique set of circumstances and character.

We are being told in Almonte, north Lanark, Arnprior and Ottawa—these are people who use our office; it is a \$1-million, brand-new building—that the government of Ontario will close us down, without any consultation or warning to us at all, without any hope of reversal by the bureaucrats being held out to us, without any specifics being given to us of the closing, without any access to an analysis to justify the closure—that has been denied us, but it is seriously flawed in our view—and without a review being conducted by the Minister of Consumer and Commercial Relations as promised. That has not been carried out.

The proud flagship office of our community is being closed by bureaucratic officials who have exhibited in the

very reasons announced for the closure a degree of arrogance, insensitivity and ignorance rarely matched in any democratic country. They have made a mistake and we are here today to ask you ladies and gentlemen to correct it, please.

In August of last year a \$1-million building in Almonte was opened to replace the old, cramped facility which had simply been outgrown due to development taking place, particularly in the towns of Carleton Place and Almonte and in Ramsay township. Situated 20 minutes away from Ottawa, as I have said, there is a migrating bedroom community population coming out from Ottawa. So far we have suffered the burden of that and not the benefit yet, but we are not at the point in time when we think we are going to get some of the share of the pie that we have been looking in the window at all these years. Now our registry office is being yanked away from us.

Some of the facts relating to the Almonte office: It is wholly government owned. Both offices in the county are the same size. Almonte is new, Perth is leased, and people have referred to that already. The only concrete saving that we have been told about is a saving of one man-year of employment in the Almonte office.

Registration volumes are contained in my presentation. I will not go over them, but as of the last year-end, March 1990, Almonte's total registrations were 43.5% of the total for the entire county. We are not that small, even though other people would like to make us think we are. Certainly there is growth in north Lanark county. That is where the growth is coming from, Ottawa and north Lanark. In a few short years Almonte's registrations would likely be equal to Perth's if the situation were left the same.

Polaris, the computerization of land registry office records, apparently is five to seven years away in Lanark county, and I think that is an important point, which I will come back to later. The members of our community, it goes without saying, were completely shocked at the announcement. There was no consultation, not just with the Canadian Bar Association; there was no consultation with anybody from the local bar and as a result, zero input was given. That is what we are asking for. We are asking for the people who make these decisions to come to the local communities and find out the facts of the particular cases we are talking about here.

I propose to go through the government's announced reasons in the flyer that was left in the registry office one by one. All of them that were outlined in this announcement are general. Every one of them is intended to blanket 14 closures across the province. None of them has anything to do with the Almonte situation.

A: Taxpayers will save in the neighbourhood of \$1 million a year. Also, proposals for capital cost improvements totalling \$8 million will be eliminated.

How closing down a \$1-million, less-than-one-year-old, government-owned facility in Almonte, and an admitted need to spend money on a Perth leased office and on the Almonte office to convert it to another government use when it has been declared surplus by Consumer and Commercial Relations, and the operating costs of whatever government department is put in there that may not produce

revenue the way a registry office does can save money is quite beyond us.

1240

The \$1-million saving referred to is province-wide. There are other factors you have to take into consideration. I have just mentioned them. Also, there is the loss of an historic service we have had for 120 years in Almonte to be taken away from us without any of these figures being quantified for us in any way. I think that if the figures were quantified, they would probably show it is going to cost money to move this office to Perth.

The minister wrote me a letter and in her letter she said that the branch average in Almonte is higher than the branch average throughout the province and moving to Perth will lower this cost when all factors are considered. If we consider factors other than the fancy and creative accounting of one ministry, we challenge this statement. It is the cost to the government of Ontario that matters, and I have referred to those factors that have to be brought in. The Ministry of Consumer and Commercial Relations is not an entity unto itself, but I think that is the way it is looking at it and I think it is the way it is presenting that to the public as a cost saving, and I do not think it can possibly stand up to examination.

To put things into perspective, I understand the only real saving is the one man-year of employment we have been talking about. That could very easily be recouped in Almonte by charging \$10 more every time you register a deed or mortgage. That would produce about \$50,000 more a year. Why can we not do something like that? Why throw the baby out with the bathwater when there are apparently some rather simple solutions to this problem?

B: The high level of customer service at land registry offices will be maintained, in many cases improved.

This is a really fascinating thing to say to people from an area where there will not be any level of service provided because an office will cease to exist in October 1991. That is a rather strange thing to put in as a reason to justify the closing of an office in Almonte. It might make sense in other areas, but why insult us by putting that in there? Nobody from Arnprior or Ottawa, where people utilize our office in great numbers, will be impressed by that. There are significant numbers of users who have already been mentioned: Real estate agents, building inspectors, volunteer LACAC workers, planners, developers and many common, ordinary people in a small community like Almonte use this registry office, and it means a lot to them.

The major point we want to make here is that the minister refers to an analysis that was made. The analysis we have been able to determine took into account the lawyers and maybe the surveyors in Lanark county. In the Almonte registry office, I believe Mr Teskey can confirm that more than 60% of the real estate transactions through his office, and I can verify it from my office, involve lawyers from Ottawa and Arnprior, outside of Lanark county on the other side. There are substantial users of the registry system in Lanark county who were totally and absolutely ignored and were simply not counted. We think this constitutes a serious mistake in the analysis the minister was given, and she may simply not realize it, ladies and gentlemen.

C: Boundaries served by the new integrated offices will correspond to the actual jurisdictions of counties.

Is that not just great, hunky-dory? Who really cares? I have not been able to find one member of the public who is in full possession of his faculties who really gives a darn about this. It is just a fancy way of saying, "You're going to get one registry office in the county." It does not particularly stand as a reason for doing it. It is no justification for doing it. It is just a statement of fact. That is all it is.

D: Each office will be located in the same community as the local sheriff.

I had a half a page on this but I am just going to refer to Mr Manning's comments and hope you read my comments. He has already said this does not matter a damn. It is a complete red herring. All the members of the bar, including the members of the bar in Perth and Smiths Falls, would come forward here today and say that does not matter, that it is a red herring. Pretty soon anyway, with the wave of the future, you are going to have the computer terminal put in the registry office, and that is where you are going to search for your execution certificates. It just does not matter.

E: Clients will also benefit from the ability to research and close transactions within a county or regional municipality in the same office.

Again, this does not matter. The overwhelming number of users of the system could not care less. You do not go to the registry office to search county-wide. You go because you have got a title to search, lot 1, concession 3. That is what you go there for. To put this in as a reason for taking our office in Almonte and putting it into Perth simply says to me and everybody else who uses the Perth office, "Now every time you have to do a deal or a search you have to go to Perth, but that's good for you."

F: The larger integrated facilities will be more up to date.

It is patently ridiculous to lump this in with the Almonte case, but lump it in they did. This rationale, quite frankly, insults the intelligence of all of us from Almonte. That might make a case in some other place, but that was stuck in the document we got in our registry office in Almonte. I personally regard it as insulting and everybody else in our community does as well.

In summary, as a result of the examination of the announced reasons, we in Almonte, Carleton Place, north Lanark, Arnprior and Ottawa do not see any good reason, any positive reason for closing the Almonte office. We see a lessening of service, we see an increase in legal and other professional costs to the public, we see our heritage disappearing and being packed off to another town. It is very important to us in the Ottawa Valley, I can tell you that. We see a promotion of automobile travel by our government, supposedly devoted to the environment and public safety. It is a decision which will cost the taxpayers more money, not less, and a decision which will result in many intangible factors not measurable in dollars, such as inconvenience, aggravation, loss of local pride and the economy being affected in an adverse way.

It should be clear that the Almonte decision is a bad one. It has been carelessly and callously lumped in with all the others, with no individual consideration being given to it whatsoever. It is a decision made by bureaucrats to suit

their own purposes, whatever they are. I do not know what it is; you will have to ask them. A shroud of secrecy has been put over the deliberations they have done. We have been denied access to the analysis. We have been denied access to I think it is an MB20 study done by the Liberal government. We have asked for them so we can see what the reasons are for this. Is there any rationale, is there any reason? They will not even let us see them.

I would like to ask this committee to please reverse this decision—obviously, that is why I am here—but at the very least to postpone this closing until the benefits of the Polaris system can be reaped. We are going to save people an awful lot of trouble. If you are going to integrate to one office in five to seven years, we could live with that, wherever that is. But give us the time so we can sit down and go to our Almonte office, do our subsearches until such time that if you move it to Perth, I can look at my computer terminal and do the search I have to without every time jumping out of my chair, or a member of my staff, and going down to Perth. I think it was Dianne Custance, a lawyer from Russell, who put that well. I heard her on the radio. She said: "The cart is being put before the horse here. What is the rush to cause all this aggravation to people?"

I would like to see Perth and Almonte both keep their registry offices. I think it is the right thing to do and I do not think it makes any sense in our case to close either one. But ladies and gentlemen, if you are going to, please wait at least until Polaris is here, because it would save an awful lot of trouble for an awful lot of people. I believe Ms Dorothy Finner, the mayor of Almonte, has some remarks to make.

Ms Finner: Ladies and gentlemen, I really cannot improve on Pat Galway's presentation, I can assure you, but I do have a few remarks to make with regard to the town of Almonte itself. The north Lanark registry office has been located in Almonte since 1879. The original building is heritage designated and stands empty. I am not going to belabour the aspect of the tradition that Almonte was selected then to be the site of the land registry office and has been continuously for 112 years.

In 1987, it was announced by the provincial government of the day that the north Lanark land registry office located in Almonte had outgrown the building in which it was located. In February 1988, a letter was received from the then Minister of Consumer and Commercial Relations assuring the mayor that the government was looking at possible locations for alternative accommodations in the town of Almonte. A status report regarding possible locations in Almonte was being prepared. After a great deal of consultation, on June 24, 1989, the announcement was made in Almonte by the Minister of Government Services that construction would begin in late summer. His announcement stated, "The building was custom designed to meet the special requirements of the people using this facility." The Minister of Consumer and Commercial Relations stated at that time, "The new land registry office will significantly improve the working environment and will provide better access to clients from surrounding areas."

I am amazed that after studies were done regarding the location of the north Lanark land registry office in Almonte

no mention was made of amalgamating the Almonte and Perth offices at that time. Because of the large number of professionals, lawyers, realtors, surveyors and the public, both from Ottawa and the surrounding areas, Almonte, Carleton Place, Ramsay, Beckwith, Pakenham and other townships, it would be the decision of this government to close the north Lanark registry office.

I am shocked that this present government would decide that a \$1-million facility, custom designed for the express purpose of providing all the necessary services of a land registry office, would decide to close it one year after the official opening, without any consultation with the municipality.

1250

As mayor, I spent hours speaking to ministers, deputy ministers and policy persons regarding the location of the land registry office in Almonte. There was consultation all the way, and yet, by the stroke of a pen and a letter from the honourable minister, the registry office is to be closed without any consultation whatsoever with the municipality.

Also, I have written to Premier Bob Rae, the honourable ministers Fred Wilson, Minister of Government Services; Floyd Laughren, the Deputy Premier and Treasurer of Ontario, and, of course, Marilyn Churley, Minister of Consumer and Commercial Relations. Strange to say, I received letters of acknowledgement from everyone except the Minister of Consumer and Commercial Relations, the Honourable Marilyn Churley. I wrote on May 15, 1991, and on June 12, 1991, I wrote a personal invitation to the minister and any members of her staff she might wish to include to come to Almonte and see the registry office for herself. I have had no acknowledgement of either letter, right up to this day.

This government is supposed to be one that is close to the people of the province. From Almonte's experience, that statement is certainly open to question. On reading the Hansard report of Monday, June 17, 1991, Mr Sean Conway, MPP, asked the Honourable Marilyn Churley about the closing of the registry office in Almonte. Her response was this: "The reality is that a lot of the offices that will be closed have incredible occupational health and safety problems. In fact, in closing a lot of these buildings, the taxpayers will be saving at least \$8 million in capital costs."

I may say that Almonte is not one of these buildings that will save any money by closing, and money will be spent to upgrade the Perth offices, both with regard to occupational health and safety problems and redesigning the building for its particular use in extension of services to a larger population.

I know for a fact that Mr Leo Jordan, MPP, has also spoken many times on the floor with regard to our situation.

I and the residents of Almonte and Lanark county are at a loss to understand what prompted the minister's advisers and researchers to present an analysis that would illustrate a need to relocate the north Lanark registry office and the minister to make a decision such as the one that has been made, which seems to go blatantly against everything the New Democratic government purports to stand for: to be close to the people it governs and to listen to them. How can this be when a ministry decision has been made with

absolutely no consultation with the community? Obviously, the government does not have to listen and we ask why. It makes one wonder if there is a hidden agenda. But we have an official closing on October 18, 1991 at 4:30 pm. Thank you.

Mr Teskey: Mr Chairman, members of the committee, first let me thank you for the opportunity for us to be here with you today. My name is Garth Teskey. I have been a resident of the town of Almonte for the past 25 years and at present I am an associate real estate broker and branch manager for the Albert Gale Real Estate Ltd in the town of Almonte. I have been continually active in real estate in the area since 1980. I am an active member of the Real Estate Board of Ottawa-Carleton and I also served for a couple of years as manager of our Carleton Place branch office. I am well aware of the real estate industry in the area.

Mr Galway and I prepared our briefs independently, but he has said a lot of things that I propose to say as well. I am speaking this morning on behalf of the people practising real estate sales in the area. They, along with myself, were shocked by the announcement on May 7 that the Almonte registry office was one of 14 registry offices to be closed in the province starting on October 21 of this year.

My first reaction was one of disbelief. There must be some mistake. Someone in Toronto just did not realize that our 120-year-old registry office had been replaced with an attractive, state-of-the-art building designed to handle the Polaris system when it comes on stream at a later date.

I will be the first to admit that real estate practitioners do not require the services of the registry office nearly as much as do lawyers, title searchers, surveyors and the like, but our quest for accurate documentation is just as important to our clients, the vendors and purchasers we represent.

Like other industries, the real estate industry has seen many changes in the last decade. We live in a consumer-driven society. The consumer is king. He not only demands but deserves better, more complete, more accurate services from the professionals. Indeed both the Canadian Real Estate Association and the Ontario Real Estate Association are constantly striving to upgrade the qualifications and knowledge of real estate practitioners.

It is no longer good enough to take the word of the vendor regarding lot sizes, location of survey bars, easements and things of that nature. The responsible real estate person should make every effort to corroborate such data as a duty to his clients. I know that in our branch office we insist on that kind of accuracy, and as a result we find ourselves making more and more use of the registry office all the time.

Today that does not present a problem in Almonte. For those working in our area, the registry office is minutes away, and the costs in terms of time and money of tracking down documentation are easily borne by those working in the area. However, moving these important services to Perth will definitely result in one thing: no question about it, the cost of doing business will increase. There is only one source to recoup those losses and that is the consumer, the person for whom we are supposed to be doing all this.

Speaking for real estate practitioners working in Lanark north, I cannot accept statements made in the May 7

communication from the Ministry of Consumer and Commercial Relations regarding the integration of offices such as, and I quote, "improved customer service," and, "Clients will benefit from more convenient locations, better access to complete records, and more up-to-date facilities." We already have those, and we are about to lose them in Almonte.

It has been reported that the Perth registry office handles many more registrations than does Almonte. I believe that, but I wonder how much longer that would be true in the event that the Almonte registry office gets a reprieve and remains open. That office is barely two kilometres from the boundary of the municipality of Ottawa-Carleton.

I would just like to demonstrate by map for those of you who are not from eastern Ontario and are not familiar with Lanark county per se. I apologize for the size of the map. This yellow line represents the boundary between Lanark county and the regional municipality of Ottawa-Carleton. We abut the region.

The Chair: You might want to pass the map around so that committee members can look at it.

Mr Teskey: Anyone checking recent regional government increases in property taxes, lot fees, lot levies, etc, will not be surprised to see the trend of development towards the adjacent townships. It is inevitable, in particular in Ramsay and Pakenham townships, which abut directly on to the region.

Before you is a letter from the clerk of the corporation of the township of Ramsay containing a list of subdivisions in the township that are presently being sold, are now in the development stage or have been proposed to council. There are 120 lots presently available, or some have been sold. A further 155 residential lots are being created and will be coming on stream within the next 24 to 30 months. In addition, according to the clerk, approximately 50 new lots are created every year in Ramsay township by the severance process.

As you can see, Ramsay township is definitely gearing up for the move westward, away from the regional municipality of Ottawa-Carleton. By my tally, this means that on the drawing board in Ramsay township alone are 275 residential lots plus 50 a year through severance, for a total of 325 lots. That is more than half the residential base of the town of Almonte. That, to me, is substantial projected growth.

In neighbouring Pakenham township to the north, residential development is also becoming a more urgent issue. The township's first full-blown subdivision came on stream last year with the first phase of 48 lots, some of which have been sold and are being built upon. Mount Pakenham Golf Estates promises to become a first-rate development, and phase two of an additional 17 lots is presently being proposed.

Of course, most of the people who are relocating outside the region will continue to work and earn their living in and around the city of Ottawa. Driving time to and from work will continue to be a consideration to many of those people. Therefore, those areas in the eastern portions of those affected townships will feel most of the developmental pressure. I firmly believe that within a few short years

registration in the Almonte registry office would far surpass the numbers in Perth, due to that development.

I understand that an analysis has been conducted regarding the users of both respective offices and that the Perth office gets much heavier use. Not knowing the terms of that analysis makes it difficult for one to determine how it was conducted, but I wonder if any consideration was given to determine just how many non-residents of Lanark county make regular use of the Almonte registry office.

1300

With that question in mind, we conducted a mini-analysis of our own in our branch office, and you have the figures in front of you. We came up with some interesting figures. We researched all of our trade record sheets from January 1, 1990 to December 31, 1990 and found that of the total office transactions of 64 sales, out-of-county solicitors, mostly from the city of Ottawa, represented one or both clients in those sales in 42 cases out of 64, an involvement of 65.6%. The figures for January 1991 to date were somewhat lower, probably due to lower interest rates, which triggered a lot of upgrading by local young families this year within the town of Almonte. None the less, out of a total of 53 office transactions to date this year in our office, out-of-county solicitors were involved in 42 of those transactions for a percentage of 60.3%. These figures can be corroborated. We have these right in our files. Although we are only one real estate office in our area, I expect similar results would be found in the other offices as well.

In closing, I respectfully urge the committee to review the process whereby the usage analysis was conducted and to perhaps consider a postponement of the Almonte registry office closure at least until 1992 so that further studies can be undertaken. I am certainly not suggesting that the Almonte registry office should remain open at the expense of the Perth office—not at all—but I wonder why an all-encompassing policy of one county, one registry office in the province is totally necessary. Lanark county, as you have heard, is the second-largest county in the province and its proximity to the regional municipality of Ottawa-Carleton puts us in a rather unique position. Speaking for the real estate practitioners of Lanark north, I would ask that careful consideration be given to that position.

Mr Robinson: My name is Jonathon Robinson. I am president of the Lanark-Renfrew New Democrats and I am here today to bring what might be a little bit different perspective to this issue.

I have as much concern with the process of how this decision was made as with the actual decision. I stood at the brand-new Lanark registry office waiting for one of the minister's people to come to look at this new building and nobody ever showed up. I followed that with a long letter to the minister on May 11. I picked up the response to that letter this morning. I spent hours and hours on the telephone trying to get information from this government on the decision so that I could understand the decision and we were not just dealing with the disbelief the other members have mentioned. I got absolutely nowhere.

I am really wondering where the open government that I worked very hard to elect last year is, and I find it very

discouraging when people in our riding say they expected a more open and more forthright government and it is just not happening.

I think the rationale used that there be one office per county is no more rational than saying there should be one two-lane highway for every city. If you people in Toronto were asked to drive to the other side of Oshawa to register your deeds, you would find that totally unacceptable, yet that is what you are asking us to do.

One of the things that was also mentioned in the press release was that there would be enhanced career opportunities for the people they were moving. That is a real insult to people who work in small communities, who walk to work, who enjoy their work. You are now telling them, "You are going to drive 90 kilometres to work to enhance your career opportunities." To me, there was no consultation going on. There was no information conveyed to anyone about the decision so we could have some input into it. I think if you listened to some of the reports earlier, we have some solutions and we would like to offer them, but we were given no opportunity for that.

I would really like to urge this committee to recommend that the decision be reviewed so we can all look at the hard facts and the numbers and weigh up whether we really want to save \$70,000 per county and what we are giving up.

There was a lawyer earlier who mentioned they could not do the mathematics to justify this. I am a grade 3 teacher and I will just indulge you in some grade 3 math for a moment if you do not mind.

There are 5,000 registrations every year in Almonte. If we assume at least two trips for each land registry to register and search the deed, that is 10,000 trips a year. It is approximately 100 kilometres round trip from Almonte to Perth. That is 100,000 kilometres a year. At 30 cents a kilometre, that is \$30,000 a year. That is just the mileage charge. That does not include the time and effort or anything like that.

When you talk about improving services for people in Lanark county, it is an insult. It is one thing to disagree on an issue, but it is another thing when the facts just make no sense to anyone living there. As a New Democrat I find it very strange for me to be here this morning. But when we look at the facts, it does not matter whether you are Liberal, Conservative or New Democrat, whether you are a farmer or a lawyer or a teacher. Everyone says the decision makes no sense.

We have brought those concerns to the minister over the last two months but have not got a single reply. I would ask you, in terms of the way the decision is being made—and we think it is a bad decision—that you at least review the decision and give us a chance to offer you some solutions.

I would just like to close by saying that Premier Rae mentioned, "This government will make mistakes, and it is by how we respond to those mistakes that we will be judged." I would suggest to you that this is a prime example of that, that the right decision can still be made and the right process can still be followed. I would urge you to do that.

Mr Jordan: First of all, Mr Galway, Mayor Finner, Mr Robinson, Mr Teskey—we also have the warden of

Lanark county and the reeve of Pakenham with us concerning this issue—I certainly want to express my thanks to you for coming this morning and driving that distance to present the feelings of the riding of Lanark-Renfrew in particular, of Almonte and district, to this committee.

The thing that damaged our feeling for government and even for the whole process was the lack of consultation, the lack of reason. To you, Mr Galway, we were made aware that there was a needs study done to initiate the construction of the building, and in a letter you received there was an analysis done to initiate the closing, both of which are being withheld. My understanding is that we would like a postponement so we can have access to this information, so the whole situation can be reviewed and the municipality and the people who use it can have further input. Would you care to respond to that?

Mr Galway: It is sort of like beating a dead horse. It is the non-consultation. We have not been consulted, we have not been advised of the facts. That is coupled with the fact—which I tried to do this morning; I do not know if I did it that effectively—that the reasons given and left in the registry offices do not apply in Almonte. We have not been given another reason, other than these general reasons, which applies to our situation.

We have been trying to find out what the reasons are. If they are contained in this analysis, if they are contained in any other document—all the people I know involved in this protest are reasonable people. If the rationale can be explained, we will accept it, we will live with it, but we just want to know what the rationale is, because it does not make sense.

Mr Jordan: I think the other part is the geography of the county. As the map illustrated, the county is the second largest in Ontario. The population is steadily growing now, especially in the Almonte-Carleton Place district because of its proximity to West Carleton, Kanata, and so on.

As demonstrated by Garth, the real estate sales and activity are showing that, and I am proud to say that our representative of the present government in that riding has also spent a lot of time in the interests of the people and came forward, and the mayor. I really believe the group and myself would be satisfied if we were given the opportunity to have this delayed till a later date so we can have some consultation and input.

Mr Conway: Just a couple of quick things: I want to say at the outset that I have spent my entire adult life in this building, listening to presentations, and I can honestly say I do not think I have ever heard a presentation that was more compelling. I really congratulate you for it. I know this case very well. It is a neighbouring county. The four of you are to be commended, and I do not say this lightly. I think this is an absolutely compelling case that has taken time and creativity and some real courage for you to come and present, and I just hope the committee and the government in this one case—I do not know the others very well, but I do know Almonte.

We have all made our mistakes—I know I have made them—I think the point Mr Robinson alluded to. The opening of a new office in one summer in a community as

busy as north Lanark that is so closely associated with the burgeoning municipality of Ottawa-Carleton, and the announcement of its closure nine months later, is seen by everyone I have talked to to be madness.

The one question I guess I would ask—there has been some reference to it—is that Perth is not only a leased facility, but when one looks at the statement the minister made, the argument I think on the basis of those criteria could be more compellingly made to close the Perth office. My information is that the Perth office is not only leased but that in fact the latest fire marshal's panel, or whatever that public inspection panel is, suggests that there are significant upgrades required to bring that building into a better compliance with fire and other safety regulations. The question I might ask Mr Teskey is whether I am correct in that, and would you guess from a real estate point of view what the cost of those upgrades would be?

Mr Teskey: I am not that familiar with the Perth registry office. I have only been in the facility maybe half a dozen times, although I do know it is an older building; the facilities all seem to be aged, as well as the building. I would hazard a guess that in order to bring it up to the standards we now enjoy in Almonte it would cost just as much as it did to produce that office in Almonte.

Mr Conway: Am I correct in remembering there was an inspection panel that reported very recently that the leased Perth facility is substantially below safety requirements according to that panel?

Mr Teskey: Yes.

Ms Harrington: Thank you very much for coming. Certainly it is very important that if the government is not able to come to you, you are able to come here and put forward your position, as Mr Conway has said.

I have noted down here that we will make sure your specific concerns are addressed by ministry staff. From what I am hearing, it sounds like a unique situation. In fact, one of the reasons I wanted ministry staff to come forward at the beginning was so you could hear some of the answers they are putting forward. Unfortunately, I am not sure if you will be able to stay until tomorrow or later today. We would like you to hear the ministry's reply.

The other thing I wanted to comment on very quickly is that you noted with regard to NDP principles—I cannot let that go—you talked about the environment and its relationship to automobile travel. We are certainly committed to those concerns. Our heritage: I grew up in Brockville, and I very much like eastern Ontario and I believe we are committed to preserving as much as possible rural Ontario, the farm land of Ontario, the rural aspects of the small

town, and we need that vision of Ontario. I just want to assure you of that.

The Chair: Mr Ferguson, you have 60 seconds for a question and an answer.

Mr Ferguson: Thank you very much. I am glad that the dynamic of time has turned out to be my collective responsibility for the entire committee. To the delegation, I heard not only from you folks this morning but other delegations earlier the whole question of consultation: "People didn't discuss this with us. We weren't consulted on the process." Quite frankly, I do not want to get into a debate on consultation, but I want to tell you that we have to make some day-to-day business decisions about running the government, and we cannot consult the general public or every affected party on every decision this government has to make.

That aside, I can make a very good argument for telling you that in fact we are opening up the process. If you look at the number of committees on the road this week, we have more road shows going than Conklin, the midway people, have on the road at this point.

In any event, if the minister came to your community and met with you and listened to all your concerns and to your compelling reasons why she should or should not close the registry office, if in the final analysis she decided to close it, would you be any happier at the end of the day?

Ms Finner: Yes, we would have a rationalization for it.

Mr Ferguson: So you are telling me that if the minister would take time out of her life to come and meet with you, rationalize to you her decision, even though you may not agree with it, at the end of the day you are going to be happier than you are now?

Mr Galway: Yes, because I think she will change her mind. I really do.

Mr Ferguson: But if she does not change her mind, if she says, "No, I've made my decision, I've listened to you"—

Mr Galway: I am going to be happier with it because this whole process, which I have probably put a hundred hours of volunteer time into, will be over and I will be quite relieved personally.

Ms Finner: May we be sure to get the response from this committee at some point? We have had nothing up to this point and we would like to be informed.

The Chair: The clerk will send every presenter the committee's report.

Ms Finner: Thank you.

The committee recessed at 1315.

AFTERNOON SITTING

The committee resumed at 1405.

RON MACDONELL, RAYMOND LAPOINTE

The Chair: I would like to call the standing committee on general government to order. We are continuing our hearings into standing order 123, relating to the Ministry of Consumer and Commercial Relations decision to close 14 land registry offices.

We already have presenters at the table. If you could identify yourself for the record. I understand you have been allocated 30 minutes by the committee. If you wish to save some time for questions, you will have to do so.

Mr MacDonell: Ron MacDonell, warden of Stormont, Dundas and Glengarry counties.

Mr Lapointe: Raymond Lapointe, co-ordinator, clerk-treasurer, the united counties of Stormont, Dundas and Glengarry.

Mr MacDonell: Mr Chairman and members of the legislative committee on the issue of registry office services, we first want to thank the committee for the opportunity afforded to us today. So as not to duplicate what has been said by others with regard to our purpose for being here, we will concentrate our remarks on certain specifics with respect to the registry office services in each of the counties of Stormont, Dundas and Glengarry.

To begin with, we wish to refer the committee to a letter sent to the Honourable Marilyn Churley, Minister of Consumer and Commercial Relations, which relates to the subject matter, including a resolution of county council.

The registry office for the county of Stormont, located in the city of Cornwall, has an area of 305 square metres, 32,183 square feet, of space and is under lease with an option to renew to the Ministry of Government Services until December 31, 1992. The registry office for the county of Dundas, located in the village of Morrisburg, has an area of 135.5 square metres, 1,459 square feet, of space and is also under lease with an option to renew to the Ministry of Government Services until December 31, 1992. The registry office for the county of Glengarry, located in the town of Alexandria, has an area of 113 square metres, 1,213 square feet, of space and is under lease with an option to renew to the Ministry of Government Services until December 31, 1992.

The county of Stormont comprises an area of approximately 400 square miles, and excluding the city of Cornwall, has 6,002 households and a population of 15,823. The county of Dundas comprises an area of approximately 420 square miles and has 7,652 households and a population of 19,462. The county of Glengarry comprises an area of approximately 460 square miles and has 8,946 households and a population of 21,164.

Combining the three individual counties for registry office purposes would result in the providing of service to an area that is in excess of 1,200 square miles, with a population of 56,449, and which, by including the city of Cornwall, has a total population of 102,000.

The cost to the province of Ontario for buildings occupied by the Ministry of Consumer and Commercial Relations for the purpose of providing registry office services in each of the counties of Stormont, Dundas, Glengarry: In 1990 Stormont was \$24,000; Dundas, Morrisburg, \$14,500; Glengarry \$7,900. At this time I would like to ask Mr Lapointe, our clerk treasurer, about these figures.

Mr Lapointe: These figures are actual costs to the province for the cost of maintaining the buildings, which includes the heating, utilities, etc, all costs associated with maintaining those buildings in a reasonable state of repair. Our warden has indicated the costs for 1990. In 1989 it was \$23,865 for Stormont and Cornwall; \$13,224 for Dundas, Morrisburg, and \$7,778 in Alexandria, for Glengarry. In 1988 it was \$24,130 for Stormont and Cornwall; \$13,989 in Morrisburg, for Dundas; \$7,660 for Glengarry. In each of those three years, if you consolidate those figures, we are maintaining three individual offices for registry office services at a cost of less than \$48,000. Looking back to 1987, the cost was \$21,577, \$8,478 and \$7,028.

The committee may ask us what happened between 1987 and 1988 to escalate the cost, particularly in Dundas, or the Morrisburg office, from \$8,000 to \$13,000. That occurred at the last lease renewal, at which time the ministry, through the Ministry of Government Services, requested certain alterations and renovations to each of the three buildings, but more significantly to the Morrisburg office. The initial costs of those renovations and alterations were assumed by the county and then amortized over the period of the five-year leases, so the costs have been recovered back to the counties over the lease duration, which is five years beginning in 1988. As our warden has indicated, the present leases run until 1992.

Mr MacDonell: The square footage of the premises in both Alexandria and Morrisburg is probably sufficient and adequate for the needs of the respective counties for the foreseeable future. However, the premises in Cornwall serving the county of Stormont will likely experience a space deficiency with anticipated economic growth, and this will be compounded if the services currently at Alexandria and Morrisburg are permitted to transfer to Cornwall.

The elimination of the costs being incurred by maintaining registry office buildings in Alexandria and Morrisburg will, in our opinion, be offset by increased costs for the additional space requirements of the Cornwall premises if a transfer of service were made possible and permitted.

The buildings that are presently being occupied and utilized for registry office services in each individual county are county owned and the lease payment is not a profit generator for the landlord, but it is sufficient to cover the costs being incurred for maintaining the buildings in a reasonable state of repair and including utilities, heating, property insurance and janitorial services.

County council is prepared to continue the availability of the existing premises for ongoing registry office services and is respectfully requesting that the inhabitants of each individual county continue to have the benefit of such

services, a service that is deemed to be a requirement of the statutes of Ontario and, more specifically, the Registry Act.

Appendix A is the resolution that was sent from the united counties of Stormont, Dundas, Glengarry, if I could read that. It is addressed to the minister.

"Whereas it has come to the attention of this council that the government of Ontario proposes to phase out the Dundas and Glengarry registry offices by transferring and centralizing the operations thereof to a central office in the city of Cornwall, and;

"Whereas it is the opinion of this council that such a decision would create an inconvenience to the citizenry of the united counties of Stormont, Dundas and Glengarry that would neither be accepted or tolerated without proper justification,

"Therefore be it resolved that this council strongly object to any movement that advances such action and thereby deprive the local citizenry of its right and entitlement to a service that is both efficient and convenient, and further, that a copy of this resolution be forwarded to the Honourable Marilyn Churley, Minister of Consumer and Commercial Relations, and each of the local members of the Legislature.

"Council cannot envisage any cost savings to the centralization of registry office services and, if your ministry is not prepared to reconsider the recently announced decision, it is respectfully being requested by council that you accept to receive a delegation of individuals from these counties who are wanting to be heard on this matter."

At this time I would like to thank you again for receiving us today and hearing us.

Mr Villeneuve: Warden MacDonell and Clerk Lapointe, thank you very much for your presentation.

I had the opportunity of questioning the minister pursuant to the announcement that the registry offices in Alexandria and Morrisburg in the united counties were going to be closing. In reply to my question, the minister said in part: "This decision, however, was based not only on fiscal responsibility. You cannot have it both ways. The government of Ontario saves \$1 million a year plus capital costs of about \$8 million. The reality is, the users of the system have been consulted regularly by the ministry officials."

We heard this morning from the legal professionals that there was apparently no consultation with them. Were you, as a county council that uses the facility quite extensively, or as the lessors of the property, consulted as to the possibility of these closures? Was there any consultation?

Mr MacDonell: Not to my knowledge, there was not, Mr Villeneuve.

Mr Lapointe: Just to follow up on that question, as indicated in appendix A, there was a letter forwarding a resolution of county council and the wishes of county council requesting an opportunity to meet with the honourable minister on this very issue. That letter was forwarded to the minister on May 23, 1991, and to this date we have not received any acknowledgement of our letter or request.

I might point out that approximately three weeks ago I contacted the ministry's office by telephone, and the individual I spoke to in that particular office was to get back to me the following day, which she did, indicating to me that

they could not find our letter, and asked me to fax a copy of it, which I did immediately. As yet we are still waiting on an acknowledgement and response to council's request for an opportunity to discuss this issue with the minister.

Mr Villeneuve: I gather from your statement that there was no consultation prior to the announcement, and there has been no consultation since the announcement. That pretty well clears the air on that one.

I am quite familiar with the facilities as a former appraiser who was using the three registry offices. Your statement here is that both Morrisburg and Alexandria, in your opinion, have sufficient area and space to accommodate them for some time to come. However, the consolidation would occur in Cornwall, where there is a problem with space, parking, and a number of other areas of concern. Could you elaborate on that just a little bit.

Mr Lapointe: The accommodation in both Alexandria and Morrisburg, serving Glengarry and Dundas, has adequate space for the foreseeable future. As a matter of fact, the indications we are getting from the users of the registry office services say it is ample and sufficient to serve the needs for the present time and for the time to come without experiencing any difficulties.

Probably of more importance here is the parking facilities. The office in the city of Cornwall has very little parking facilities. As a matter of fact, it only has parking sufficient to accommodate the present personnel employed there, so if additional personnel were brought in, they would have to find parking outside the present facility or premises.

Mr Villeneuve: This is for employees only and it does not take into consideration the users of the system at all, I gather.

Mr Lapointe: That is right.

1420

Mr Cleary: Having been involved some 15 years municipally with these united counties, I know how important it is to have these registry offices in place, both in Glengarry and in Dundas. I know our counties have some 1,200 square miles and there would be a lot of inconvenience if these registry offices were to close. I know the proposed plans are to move them both into Cornwall, but I think it would be a step backwards if we were to do that. That is all I will say for now.

Mr Ferguson: My question is to the delegation: Are any of you gentlemen aware that in fact there are regular meetings with the users of all registry offices to dialogue with them to sort out any problems they might have in using the registry offices?

Mr Villeneuve: When? Tell us.

Mr Lapointe: We have not been made aware of any meetings. As a matter of fact, this is the—

Mr Ferguson: No, I am not asking you if there are meetings. I am telling you there are regular meetings. There have been meetings going on for perhaps the last 20 years with ministry officials and with users of the facilities to sort out any difficulties they might have. The meetings take place on an ongoing basis.

Mr Lapointe: We have some users of the registry office services accompanying us today and I am sure they could comment on that particular statement.

Mr Ferguson: So you are not specifically aware—

Mr Lapointe: No, we are not aware.

Mr Ferguson: Just to clear up the matter, in fact there are regular meetings that happen with the ministry and with some users of all registry offices right across the province that take place on a regular basis. When the minister made the comment in the House that there in fact have been some discussions around this issue, she was referring to the discussions that take place on a regular basis between her officials and individuals who use the registry offices.

For the committee's information, I think what we ought to be doing is requesting some information as to who is consulted on a regular basis surrounding the operation of registry offices by the ministry officials. I think Mr Villeneuve would be happy to receive that information and I think it is a valuable piece of information that the committee ought to be looking at.

The Chair: If that is your request, maybe we will have the clerk initiate a request to the minister's office to the appropriate official. We will request a list of meetings that may have taken place and who was involved and we will distribute it.

Mrs Fawcett: May I make a further request and ask for minutes of those meetings, if there were any minutes taken, please?

The Chair: You want the minutes of the meetings too?

Mrs Fawcett: Yes.

The Chair: Very good. Anything else added to that request, unless there are any objections?

Mr Villeneuve: Just as a supplementary to Mr Ferguson here and also in the reply from the minister, the reality also is these 14 land registry offices are in the only counties in Ontario where there is more than one land registry office per county. That is not right, I am sorry.

The Chair: I am sorry, Mr Villeneuve, it is a good point but it does not have anything to do with the request. Mr Lapointe, do you have something further?

Mr Lapointe: Just to follow up on that statement about these meetings, municipalities are—

The Chair: Mr Lapointe, if you do not mind, I think what we should do first is kind of clarify what the committee wants, so we can distribute it, and then we will go on to other points. Mr Ferguson, what is it exactly that you were going to request?

Mr Ferguson: The point has wrongly been made that there has been no discussion—

The Chair: No. Right now the only thing I want to do is clarify what it is—

Mr Ferguson: I know that. I am getting to that. We are not all as succinct as you are, sir. Meetings have been going on for the last 20 years. There have been meetings with ministry officials and officials of various registry offices on an ad hoc basis. What I think would be important

for the committee to recognize is that, number one, those meetings have been taking place; number two, there has been discussion around this issue with the registry office officials. The suggestion has been advanced that we should get minutes of the meetings. Do you want the minutes for the last 20 years?

The Chair: After hearing the committee members, we are going to have the clerk request of the minister copies of all meetings with the attendees from both sides—from the ministry and from the user side—of the last, say, 24 or 36 months, and if there are minutes that go along with those meetings, we will request that also. We will make all the information available to the committee as soon as possible and we will make the information available to the warden and to Mr Lapointe since they are vitally interested in it.

Mr Villeneuve: As an amendment to that request, these registry offices are scheduled for closing on November 11. If the ministry, for whatever reason, takes six months' time to find these minutes, registry offices are closed. I would say, as an appendix to that request, that registry office closures be put on hold until such time as the information is provided.

The Chair: The Chair cannot request that. The Chair can only request information. The clerk will review the Hansard of the last five minutes and we are going to then make a request to the minister's office for some basic information. Those things, I am sure, exist in files. I do not think it would take six months to compile a list of all the meetings.

Mr Villeneuve: It took an awful long time to get the answer to this letter, which is still forthcoming.

The Chair: Mr Villeneuve, I am only serving as the Chair of the committee. I cannot make comments on any of these other things.

Mr MacDonell: There is one more thing I would like to add. We had a Rural Ontario Municipal Association meeting in Goderich, July 17-18, and there—I am a past president of the board—it was brought to the board's attention what was happening across the province, and there is quite a concern in rural Ontario for what is taking place. It is affecting everybody, not just in our area. We are concerned with our area in eastern Ontario, but at this meeting it was brought out that this seems to be happening right across the province and it is quite a concern, because the closing of all these federal-provincial ministries in the small towns affects us very much.

The Chair: Thank you very much for your presentation. Mr Lapointe, do you have any final comments to add for the committee's benefit?

Mr Lapointe: I would like to draw the committee's attention to appendix B of our presentation, which is a map of our counties, Dundas, Stormont and Glengarry, that shows the geographic location of each of the existing registry offices. I think if one were to study that map and look at the distance that would be required to commute, let's say, from the northwest corner of Dundas, the Hallville area to Cornwall, that is going to add considerable time and expense to the users of the library services; the same thing with the northeast corner, the Lochiel township area. For those

users of the registry office facilities to commute to Cornwall is going to require considerable travel time, expense, etc.

The only other item I might draw to the committee's attention is that it has been indicated that the three facilities are under lease to the Ministry of Government Services, a lease that does not expire until December 31, 1992. There has been no notice served to the counties that those premises would be vacated prior to the expiration of the existing lease. We are not sure what the ministry's intentions are should the premises be vacated prior to the leases being expired and we would appreciate some sort of comment so that plans can be made. Either we are going to renew the leases or look for alternative services to be placed in those facilities, because they are good facilities. They are serving a present need and purpose, and the people want to keep that existing service in place. County council has indicated a willingness to co-operate for the purpose of continuing the existing services that the people want retained as they presently are.

The Chair: Thank you for your presentation today.

1430

DOUGLAS GRENKIE

The Chair: Doug Grenkie is the next presenter. You have 15 minutes for your presentation, Mr Grenkie. That includes questions and answers.

Mr Grenkie: I have brought with me today a copy of the book called Lunenburg or the Old Eastern District, which relates to the history of our area. We also have historical atlases, which I am not going to file. They are too valuable to have for each committee member. It is the historical atlas of Leeds and Grenville, which was published in the late 1800s, as well as the historical atlas for Stormont, Dundas and Glengarry. Our area, including the united counties of Prescott and Russell, is very historical, and all of us are very proud of our area. I think what the ministry has attempted to do is wrong not only in an economic sense but in a social sense as well.

I can advise you that I have been a lawyer in Morrisburg and I have continually used the registry offices located in Russell, Alexandria, Cornwall, Morrisburg, Prescott, Brockville and Ottawa.

The proposed closure of the registry offices in Russell, Alexandria, Morrisburg and Prescott will have a negative effect on the economy, tourism and history, cost of municipal government, cost of banking services, construction, real estate services, surveys and legal services for the residents of the particular villages and towns in each county. Indeed, in my opinion, there will be a loss of income to the province of Ontario. The presence and communication of the provincial government in the rural areas of the province will be further eroded. The proposed closure would violate an express act of the Legislative Assembly.

Dealing with the economy: Each registry office is located in a small village or town in eastern Ontario. The presence of the office attracts people to come to each particular village to use the services, and as a result those individuals spend money in those villages and towns. In addition, each office not only employs permanent staff, usually a registrar and deputy registrar, but many contract

positions, and those contract positions provide moneys for people in those small towns, which they then spend in those towns. That would be a loss for us.

Dundas, Glengarry and Grenville were three of the original 19 counties established in Upper Canada by Governor John Graves Simcoe in 1792 and were contained within the district of Lunenburg, later the eastern district, one of the four districts of what is now Ontario. We were one of the first. This was proclaimed in 1788 by Lord Dorchester. The settlement of this province was the result of the actions of our early ancestors in these counties. The counties are steeped in history and the residents enjoy it. There are strong community feelings tied to the history of these counties. I might say that the registry offices are the epitome in each of those counties of that history.

Tourism is one of the major industries in these counties. Upper Canada Village is the most well known facility, located in Morrisburg, in Dundas county, but Fort Wellington in Prescott, in Grenville county, is annually becoming more popular. Glengarry county has its Maxville Highland Games near Alexandria. In addition, there are multitudes of historic places and events throughout the three counties which attract many tourists to the area. These tourists like to visit and investigate the historical roots of themselves and the province found in each particular registry office. The registry offices are a further attraction to draw people into the area.

The historical records are located in each registry office and are enjoyed by historical groups such as local genealogical societies, the United Empire Loyalists, the Women's Institute and other community organizations. The registry offices are located locally and are accessible to them. These people will not go the distance when the offices are closed. This will be a great loss to those individuals.

Municipal governments, being the four townships, incorporated villages and towns in each of the counties, are regular users of the offices through their employees. The clerks, road superintendents, bylaw enforcement officers, building inspectors and Ontario home renewal program administrators must often attend the registry office to ascertain ownership and register documents. The closure of the offices will cause substantial increased costs for each municipality in unnecessary travel and lost time. Russell to L'Orignal will add 1.25 hours; Alexandria to Cornwall will add 1.25 hours; Morrisburg to Cornwall will add 1.25 hours, and Prescott to Brockville will add 0.8 hours.

With respect to banking services, each of the registry offices provides easy accessibility to the major banks located in each of the counties. Bankers regularly use the offices to determine ownership and mortgage registration. It is common practice for bankers to verify applicants' information personally prior to approval of loans or renewal of loans. The increased cost to local banks in each county, because of time and travel, will no doubt be directly transferred to the clients who are residents and businesses in that particular county.

With respect to construction, local contractors and construction companies are necessary users of these offices. Ownership and easements, such as gas, hydro, Bell, etc, must be verified prior to any works being undertaken. Increased

time and travel costs will be directly billed to the consumer, being the residents and businesses of each county.

Real estate services: Real estate appraisers, brokers and salesmen are regular users of these offices. Once again, increased time and travel costs will be directly billed to the consumer.

Ontario land surveyors are situated with full-time offices in each of the counties. Obviously, surveyors and their crews must be on the land to do each survey. Increased time and travel for document search for ownership and easements will be necessitated by these closures. Again, the consumer will pay the increased costs.

With respect to legal services, the most obvious increase in costs for the consumer will be legal services. Dundas county had 3,687 registrations, Glengarry had 3,546 registrations, Grenville had 5,908, and Russell had 17,153 for the year ended March 31, 1991. Travel and time costs will be increased for the client or consumer whether he or she uses the lawyers in the county or he or she takes time off to travel to the new locations.

The additional cost per transaction for Dundas county consumers will be a minimum of \$150 per transaction. This translates into over \$500,000 annually for Dundas county alone. I can assure you that Glengarry county, Grenville county and Russell county will feel the same amount of loss and they will have to pay out that same type of money.

Tourists and casual historians who regularly visit the registry office will not be inclined to make the trek to Brockville, to Cornwall or L'Orignal. As a result, the ministry will not benefit from the fees it charges for such inquiries and searches of the abstract for each lot and copies they make in those offices for which they charge 50 cents. I estimate that the weekly loss for each office would be between \$50 and \$200, and that will be a direct loss to the province.

Each registry office provides a presence of the provincial government in each county. At these offices, residents may obtain the necessary forms to apply for certificates from the registrar general, landlord and tenant and other applications to various government ministries. The residents of each county, therefore, know that their government is giving them a service which they have earned and pay taxes for.

The registry office system, as you know, brings income to the province. It is a net income-maker for this province. The closure of each of these offices denies the residents of their rights in having an essential service of land registration in their locality, a system which was originated and was present prior to the formation of the province of Ontario.

The announcement of the proposed closure was made without any prior local consultation with the users of the system. Indeed, after the announcement, many individuals and groups have written strong letters of protest to the minister. I wrote a letter on May 27, 1991. Neither I nor any other person I know of, and I have received many copies of objections, have received a reply or acknowledgement to date.

Home ownership in eastern Ontario counties is a goal which all residents strive for and most achieve. Whether on social assistance or working or whatever, people in our

counties want to own a home and they do achieve that, all of them, as best they can. A land registry system is, therefore, most important to all the residents. This attempted denial by this government is yet another example of a continuous denial of the rights to services of rural Ontario residents.

The Registry Act provides for the registry divisions in section 4 of the RSO 1980, chapter 445. Subsection 4(2) of that act provides that there shall be one land registry office for each county, and subsection 5(1) provides that except for the Toronto boroughs, the registry office shall be located in the county. The proposed closure would clearly violate an act of the Legislative Assembly of Ontario.

This right by law for each county to have its own registry office is further confirmed by the Territorial Division Act, RSO 1980, chapter 835, as amended. Section 1 states that the Territorial Division Act applies for municipal purposes; subsection 4(1) clearly states for municipal and all purposes not otherwise provided for by law. The Registry Act provides for by law.

1440

Therefore, the Territorial Division Act does not apply, but it does state that the following counties continue to form unions of counties: Stormont, Dundas and Glengarry, Leeds and Grenville, and Prescott and Russell. For municipal purposes, there is one counties council for each of the unions, but historically and legally, and as recognized by all prior governments of Ontario, there has been one registry office for each and every county in the province.

I have appended to my presentation, which I have filed with the clerk, a copy of page 316 of Lunenburg or the Old Eastern District by Judge Pringle, which was written by him in 1890. It should be understood that we have had a registrar in Dundas county since 1795. We have had a registrar in Glengarry county since 1795. We have had a registrar in Prescott since 1795, and a registrar in Grenville since 1795 as well. That predates this province of Ontario and is an example of the history that has been associated with this.

I have also attached for your reference copies of the relevant sections of the Registry Act and the Territorial Division Act.

Ladies and gentlemen, I would like to say that since we have had our own registry office in Morrisburg and Prescott and in Russell and Alexandria since 1795, it would be my humble suggestion that if the province does not wish to operate the registry office, we would be glad to do it ourselves.

The Chair: We have about one minute per party.

Mr Villeneuve: Thank you, Mr Grenkie, for a very thorough and historical presentation. I think that puts it well into context. Were you, as a member of the bar association and as an active lawyer, ever consulted regarding the potential closure of registry offices that you use on a daily basis?

Mr Grenkie: No.

Mr Conway: I am quite intrigued by your last observation. I know the people of Dundas are quite resourceful, but is that a practical suggestion?

Mr Grenkie: Yes.

Mr Conway: You could run that?

Mr Grenkie: Yes, we could. If you heard the presentation by the united counties, it is quite clear that the costs of actually running the office are minimal. We could have our own staff there just as easily as anything. It is only 2.5 in staff. With 3,600 registrations at \$25 a registration, we are well over \$100,000 in income on that part alone. So yes, we could do it very easily. I am sure that in Prescott county, its Russell office was over—if Cumberland is taken out, you are probably looking still at well over 11,000 or 12,000 registrations, so we could easily do the same thing. That is a growth area.

I did not want to get into it terribly, but from Prescott county, that is to say Russell, which is at the west end of the county, to go to L'Orignal is almost impossible. That is the growth area in that whole region. It is just unbelievable that anybody could think of moving the registry office out of Russell to go to L'Orignal. It just is not practical in any sense whatsoever.

I did file with the committee, and I will make a note on the record, a letter from Mr James D. Campbell, of the firm of Baribault, Campbell, Martel, and LaViolette. They are lawyers in Russell, Ontario, and have a very active practice throughout the five united counties. Basically what it means is that if they have a transaction just over the county line to the south, they are going to have to go all the way to Cornwall, and if it is a little bit to the west and south, they are going to have to go all the way to Brockville. It is just awful what is going to have to be done to that kind of service.

Mr Ferguson: I just want to note as part of my question that the Registry Act states that there is one office for every provincial judicial district, not one office for every county or territory.

Your delegation made a number of observations in its brief today. Among other things you seem to have inferred that in fact land registry offices are tourist attractions. Surely you do not believe that?

Mr Grenkie: Yes, I do. For example, you will be hearing from Prescott, which is in the county of Grenville; the building itself is a historic site, as is the building, as you will be hearing later on this afternoon, in Alexandria. Our building in Morrisburg, which serves Dundas county, is modern because we got flooded out back in the Seaway days, back in 1957, but before that time it was a very historic part. One of the original registry offices, I think, is 145 years old. It was a house originally and it still exists in Morrisburg and people live in that house right now. Morrisburg, I know, is in the throes of developing an historic site path for people to do a walking tour in the summer months. So yes, it is very historic and a tourist attraction.

The Chair: I am sorry, our time has expired. Mr Grenkie, thank you for your presentation.

KAREN GORRELL

The Chair: The next presenter is Karen Gorrell. The committee has also allocated 15 minutes for your presentation and you can withhold some time for questions and answers if you wish. Would you please identify yourself for the record and any organization you may represent.

Mrs Gorrell: My name is Karen Gorrell. I am a real estate broker. I have been in real estate for 13 years and my office is located in the village of Morrisburg.

Honourable members, it is to each of you individually, as the person dedicated to representing the interests of your community, that I speak. All decisions you must make involve a balancing of gain and loss. Too often arguments are presented mainly in economic terms. Those contained in the presentations from my fellow realtors are persuasive in themselves, but I wish to raise with you another dimension.

As members, you are conscious of the continuing tension between the aims of bureaucracy and the needs of your communities. Whatever the financial or economic outcome of arguments for and against moving the Dundas county registry office from Morrisburg, the entries on the balance sheet in social terms, in terms of service to individuals and to the community, are all on the debit side of the ledger.

Where presently situated, the history of land transactions in Dundas county is easily accessible to all, not only those earning their living in relationship to them, realtors, lawyers, bankers, builders, but to those considering purchase of land and those studying the past.

The continuing record is at present in the hands of members of the community. Individuals who know Winchester, Williamsburg and Iroquois are individuals who know local anomalies and who may well know a piece of land by somebody simply saying, "I want to look up the old McIntosh farm."

The Morrisburg community focuses on the shopping centre, the post office and its nearby registry office. The registry office is not the heart of this entity, but the lawyers, realtors, banks and others related to land transactions all form part of the sinew of the community. At present their focus is within the county. If current proposals are implemented, the community focus will be diminished.

Dundas county is a community. It is defined in terms of a land area, true, but it is much more than that. It is an integrated set of individuals providing for each other's needs.

The government of Ontario today is under the direction of individuals whose credo has been that of caring and sharing, of building better communities, of seeking to awaken individuals to a greater sense of social responsibility.

The communities that most approximate in reality the ideal that the government, its ministers and members are seeking to foster are those which exist in rural Ontario, in Dundas county. Yet while efforts are being made to build communities in metropolitan centres, it is an integral part of our existing, functioning community that this proposal will destroy if implemented.

As you ponder the balance sheet for and against implementing this proposal, I ask you to accept the argument that any destruction of our community life should not be implemented without very strong reasons, reasons far greater than can be brought forward once all other factors are balanced out.

Also submitted to the clerk, attached to my presentation, are objections from five other realty companies, all located within the boundaries of Dundas county.

1450

The Chair: Do you have anything you wish to add at the present time, or are you ready to take questions?

Mrs Gorrell: No, not at the present time.

The Chair: Very good. Mr Villeneuve.

Mr Villeneuve: Thank you, Mrs Gorrell, for a very thorough presentation. How many realtors are there in Morrisburg and area?

Mrs Gorrell: I would say in Dundas county we have approximately 40 at the present time.

Mr Villeneuve: Forty people who are involved in the transactions of—

Mrs Gorrell: Yes, they are licensed people.

Mr Villeneuve: Of course, when a transaction occurs, quite often a mortgage follows, so we are talking two transactions when a transaction occurs. Therefore we are talking considerable additional costs which are basically the fault of the registry office not being close at hand, I gather.

Mrs Gorrell: We have to spend many hours in a registry office going back, getting deeds, getting copies of plans, etc. We are in a rural community. Many times the deeds the owner has of the property are just copies of where it states metes and bounds. We therefore have to do a further search to make sure we are not advertising a property that really the owner, the vendor, does not own, and therefore we will be legally charged. That is how we spend a lot of our time.

Anyone who is doing appraisals within our business certainly has to spend a number of hours in the registry offices, not only in our profession, but also builders whom we deal with. There is a lot more dissent in the sale of the new homes.

Mr Villeneuve: You are a broker with Thom Realty and you are representing a group of individual realtors in Dundas county. Have any of the realtors, to your knowledge, been consulted by ministry officials regarding the potential closure of your registry office?

Mrs Gorrell: None whatsoever.

Mr Brown: I too am very pleased that you have taken the time to come before us today and to bring a very good and well-prepared brief.

I could not help but think, as you made this presentation, that this is about community rights as much as anything. I represent a northern riding, but a riding that relates relatively well to your experience. I know in our area that the closure of the rural post office has created quite an interesting backlash. People do not like that. I think all three parties in this room have objected strenuously to the closing of rural post offices.

It strikes me that this is exactly the same thing that we are seeing here from this government. Without any consultation or whatever, we are going out and taking part of the very fabric, part of our very history, from the people who have lived there and have settled there and have strong community traditions. Do you think there is some validity in that? Do people see the issue in the same way, I guess is what I am asking you.

Mrs Gorrell: Very much so, and I can state my personal feeling in this, one I share with many other people. We are beginning to feel that unless you live in an urban centre in the province these days, they are taking away any kind of services that are presently in existence. We have a hard time trying to get anything into our community in the line of government services and we certainly are going to fight very hard to keep what we have. After all, I pay the same amount of taxes as the person living in the city and I like to have a little bit of the services. I feel personally that this particular government has always stated that it is a people's party, where it likes to represent the small businesses.

We might be six realtors' offices in Dundas county. We are all small businesses and it hurts us badly. We do not have 200 people or 150 people. We cannot afford to have a person go to Cornwall and sit all day in the registry office. We do not have that type of manpower. We are struggling to get by day by day. That is my concern, and that is one of the very reasons I am here today.

Ms Harrington: I wanted to first of all thank you for your very kind comments about this government. You said our "credo has been that of caring and sharing, of building better communities, of seeking to awaken individuals to a greater sense of social responsibility." I appreciate that and I believe you are correct.

What I would like to say is yes, that is true. My parents lived in an old stone home between Brockville and Cornwall where in fact there was a plaque that said 1790-something, if I remember correctly. So this is a historical area and it is a tourist area and there are people who want to come back and find their roots. It is a United Empire Loyalist area that stretches all the way up towards Cornwall, I believe. Unfortunately, we would like to have things stay the same but change is inevitable, I am sure you would admit.

What I would like to just tell you is that after careful evaluation, change does take place, and we will assure you that there is careful evaluation of this and many other things. Of course, our government must make the tough decisions. It is not easy, as you know. In this last year, with the recession, there are many very difficult things that have to be done. I would just like to let you know that.

The Chair: We have about a minute left.

Mrs Gorrell: I would just like to respond to that, if I may. Does it have to be at the cost of the small businesses in the rural communities?

Ms Harrington: It is very difficult to respond to, but it has to be a cost to everyone in this province if we are to try to live in this difficult time and share the problems we are all facing.

Mrs Gorrell: We do not mind sharing the cost, but we do not want to have to bear the burden of them. That is my problem.

The Chair: Thank you for your presentation, Mrs Gorrell.

BILL DILLABOUGH, J. P. TOUCHETTE

The Chair: The next presenters I believe will be sharing their time, Reeve Bill Dillabough and Mayor J. P. Touchette.

The committee has allocated 15 minutes for your presentation. You can share the time and save some time for questions and answers if you wish. Will you please identify yourselves for the record?

Mr Dillabough: I am Reeve Bill Dillabough, the village of Morrisburg. I would like to thank the committee for the opportunity to be here today to talk about our concerns. I do not have a prepared brief; I am just going to talk from the cuff.

The only one this is going to affect if you were to close this office is the blue-collar worker in eastern Ontario. They are having a hard enough time now buying property and this is only going to add to it. The GST has been added to the buying of property. If you close the registry office, there will be another cost to the average Canadian, and that is who I am concerned about.

Mr Grenkie and Mr MacDonell, our warden, told you our concerns and there is no sense in my being a repetition of that.

There was a study made by the province, I understand. I have a copy of it here, and it says, "Government withholds registry office study." I do not know why. Why would they want to withhold the study? That is what concerns me on that. And what would that study cost? Has anybody any idea in this committee here?

The Chair: No, but we can try to find out for you.

Mr Dillabough: I just cut this out of the paper. It says, "Provincial government bases closure of Almonte office on a study which won't be made public." It is very hard to know why they would not want to make it public if it is paid by the taxpayers of the province. They will have to answer to that question.

The Chair: If there is any ministry staff here, I would just ask that they take note of the reeve's request and forward the information to the committee clerk and we will distribute it and make sure it is given to you, sir.

1500

Mr Dillabough: I would like the committee to understand that at no time in my 18 years as reeve have I had anybody—this one gentleman here tells me that there were meetings going on all the time across the province concerning the registry offices. I have never been notified and I have been here for 18 years, and that concerns me.

I estimate in the county office in Morrisburg we take in roughly maybe \$125,000 a year, and any time you can run a business at a profit, you stay in business. To me, if they close this office, they are closing a business that is producing revenue. I do not know how the government handles its books, but profit and loss is the most important thing. I think there is a profit here, and that is one of the reasons we are prepared to run our own registry office if we have to.

If I recall, not too long ago the Premier of this province was in Cornwall. He told me he would guarantee that government would not stop in Kingston, and already we are getting 14 offices in our riding being closed in eastern Ontario.

We are people. We are proud people, and I just hope that this government—and I am not criticizing the government, because I think every government has to have a

chance to operate. I just hope this government will show responsibility when the time comes to make a responsible decision and a fair decision. That is what I think we should be talking about.

Also, I have a letter here from the president of the NDP riding association and he wanted me to read it here today. He says:

"Thank you for sending me a copy of the correspondence sent to the Honourable Marilyn Churley considering the discontinuation of registry office services at Alexandria and Morrisburg.

"I had already, in fact, written to the minister pointing out the widespread concern in the counties over the proposed closures. I believe that Helena McCuiag, the NDP candidate in Stormont, Dundas and Glengarry in the last provincial election, has done the same.

"I attach a copy of my letter to the minister.

"Trevor Tolley,

"President,

"NDP Riding Association,
Stormont, Dundas and Glengarry."

He says:

"Dear Minister:

"I am writing to you as president of the NDP provincial riding association for Stormont, Dundas and Glengarry.

"I feel that I should draw your attention to the very strong feeling throughout this riding concerning the proposed closing of the land registry offices in Morrisburg and Alexandria. There is widespread condemnation...by both individuals and the press. This is not confined to lawyers and real estate agents. The entire council of Williamsburg township, of which I am a member, felt that the move was most retrograde. In addition, long-term NDP supporters, including our candidate in the last election, feel that the move will have very bad consequences for local communities.

"I would respectfully ask you, in the circumstance, to give your most careful consideration to the question of whether the closing of the Morrisburg and Alexandria offices is appropriate, particularly in view of the large distances involved and the distribution of population in the area.

"Yours sincerely,

"Trevor Tolley,

"President,

"NDP Riding Association,
Stormont, Dundas and Glengarry."

Thank you very much, ladies and gentlemen.

Mr Touchette: I am J. P. Touchette, mayor of Alexandria. Mr Chairman, distinguished members of the committee, as mayor of Alexandria and on behalf of our community, I thank you for providing us with the opportunity to address a problem of great magnitude and with a far-reaching, detrimental conclusion if it is allowed to happen. I especially want to thank our member, Noble Villeneuve, for his help in making this meeting possible.

Alexandria is a town of 3,300 inhabitants. We are the only town in SD&G. We are proud, hard-working individuals who have struggled and worked together to advance and promote Alexandria as a wonderful and progressive place to live and work. Alexandria is the hub of Glengarry, the

very centre of the county. We are proud to provide many services to our surrounding townships. It was only natural that close to 200 years ago our town would be the home of a registry office, the first, or one of the first, in Ontario.

Alexandria has been a victim of the Mulroney government. Free trade, deregulation of the trucking industry, elimination of shoe quotas and the Crow interest policy for creating a made-in-Canada depression have taken their toll on Alexandria. Some 600 jobs have been lost.

The announcement, or edict, regarding the closure of our registry office—totally without consultation in any of the 25 years I have been in council—by the minister is something we cannot accept. Our letters, resolutions from our municipal councils, petitions, phone calls and presentations from all walks of life have all fallen on deaf ears.

We believe this decision is based on bureaucratic bungling, a few civil servants who believe that bigger is better and who have tried for many years to bring this closure about.

Bob Rae was elected by the people of Ontario with a platform of helping the little man, of giving everyone in Ontario an equal chance of making sure that all provincial money is spent equally and protecting small communities and preserving jobs and creating new ones.

The closure of our registry office would be an economic disaster. Our service industry is already adversely affected. Our restaurants and retail outlets would be further undermined.

The savings effected by centralizing to one office in Cornwall are a work of fiction. We would like to meet the author of such a report. The present facilities in Cornwall are inadequate, lacking in parking. At times people wait in line and have to stand up to do their work. A centralized office would cost four to five times the proposed savings.

I ask this committee, in the name of God and everything that is decent, to convince the elected government of Ontario to halt the dismantling of all that is precious to us and not to eliminate a natural right to be treated with fairness and justice. I thank you.

Mr Villeneuve: Thank you, your worship, and Mr Reeve. I think you have pretty well said it all in not too many words, which is not typical of politicians. However, I thank you for that. I think you got the message across very clearly.

In Alexandria's case, I think there was a question a while ago. How old is the building, in your opinion, Mr Mayor?

Mr Touchette: I think it is close to 200 years.

Mr Villeneuve: Yes, I think you are absolutely right.

Mr Touchette: It is a gem.

Mr Villeneuve: The users of that facility are going through some very difficult economic times, as you have touched on. You did not touch the rural economy in the area, which is also suffering very drastically.

I come from a background that did a lot of work with the registry office. Of the 3,500 or so transactions, how many of those would involve agriculture, farmers either renewing mortgages or getting new mortgages, acquiring more land? The federation of agriculture in Glengarry sent

me a letter—I have a copy here—about its very deep concern as to the added cost of doing business as a farmer, renewing mortgages and what have you. Would you have an idea as to what the proportion might be?

Mr Touchette: A guesstimate of the transactions going on in the registry office, excluding Alexandria, would probably be 85%, in my estimate. I do not have anything to back that up, but going on the population, the way we are divided, etc.

Mr Villeneuve: And certainly Alexandria is the hub of Glengarry, situated in the centre of Glengarry. It is the logical spot. It is the metropolis of the jurisdiction that I very proudly represent, at 3,300 people, and they are attempting to take away the registry office. I really thank you for being here.

Mr Reeve, the same question to you. I know there are very good agricultural enterprises in Dundas county. Would you have an idea as to the proportion of the transactions in Morrisburg that would be agriculture oriented and those that might be oriented more towards Winchester and Morrisburg, the towns?

Mr Dillabough: In our case we have four villages.

Mr Villeneuve: Yes.

Mr Dillabough: Winchester, Morrisburg, Iroquois—

Mr Villeneuve: Chesterville.

Mr Dillabough: And Chesterville. So I would say it is roughly about half and half.

Mr Villeneuve: Fifty-fifty.

Mr Dillabough: Because there are four townships and four villages. Does that answer your question?

Mr Villeneuve: Yes, I think it does. Thank you very much, Mr Chair. I pass to my colleague.

Mr Conway: We have before us two of the senior senators from municipal government in eastern Ontario. My friend from Moose Creek was talking about how the mayor of Alexandria speaks so clearly. He sings beautifully as well, I want to add, but we are not here to talk about singing.

I want to ask a question of both of these gentlemen and it has to do with the actual costs of the so-called integration. I think it was the mayor of Alexandria who said that it would be as part of that work of fiction to which, in the land of the decent, he made reference. What are the real costs? You said three, four, five times over would be likely the result of the integration. Can either one of you or both of you give some indication? Perhaps, J. P., you might start by simply elaborating on how those costs are going to pile up.

Mr Touchette: I would say that the building in Cornwall is completely inadequate. It does not have enough parking even for the employees. They say that the savings are roughly \$1 million in one of the studies I found. I would say that in the first year or the second year you will have to build a brand-new building that will cost anywhere from \$4 million to \$10 million somewhere in Cornwall, completely without any justification.

Mr Conway: That is an important point, I think. As I say, I do not know the situation in Cornwall. I do know the

case in Perth. My guess is that the upgrades in Perth will be—well, I think one of the earlier witnesses talked about several hundreds of thousands of dollars. Your guess is that in Cornwall it would lead almost certainly to a new building?

Mr Touchette: Completely. There is no way they can handle the job from there. They cannot handle what they have at the moment.

Mr Dillabough: We all know what happened in Almonte. They built a new one for \$982,000 and they are talking about closing it.

Mr Conway: But the point in Almonte is that the move to Perth—and here I think there is some similarity. According to earlier witnesses and a lot of commentary in eastern Ontario, the leased facility in Perth is going to require very substantial upgrades just to bring it into conformity with current fire and safety regulations, and that seems to be what you are saying about Cornwall as well, that it is just overburdened with what it has now before any of the so-called integration takes place.

Mr Dillabough: They are probably the only two facilities run by the government that are not losing money. Maybe that is why they want to close them, and I think that is wrong and they should think about that. I think governments like to get into things that lose money and we politicians municipally want to break even.

1510

Mr Conway: Well, I am very sensitive on that point, so I would yield the floor to my friends opposite.

Mr Drainville: I want, first of all, to thank Mr Dillabough and Mr Touchette pour votre intervention. I would like to say, first of all, that, just really as a point that should be made, in 1968 the counties of Ontario petitioned the provincial government to take over the justice system, courts, land registry offices and jails. The province did so under the 1968 Administration of Justice Act. The reason for that at that point in time was, I think, the municipalities felt strongly that the infrastructure and the cost of that infrastructure needed to be taken on by the provincial government.

In the discussions we have heard, there is obviously a willingness on the part of the municipalities at least to take back the registry offices. I have heard it now from a couple of witnesses. Following along from what my colleague asked before, do you believe that the municipalities have the wherewithal to do that, and could you give some indication of whether there is a true willingness there to go that route?

Mr Touchette: I think I can answer for the town of Alexandria. We are part of the three united counties, and as a last resort—but I still think the provincial government would be negating what it should be doing. They have taken it on. By the way, we have asked you to operate it, not destroy it.

Mr Dillabough: Actually, we do own the buildings now. All we are saying is, do not close them. That is what we are saying. If you are going to close them, I think that—I certainly can speak on behalf of the village of

Morrisburg—we are prepared to pay our share to maintain them.

The Chair: Gentlemen, thank you for your presentation.

MAURICE SAUVE, PIERRE AUBRY

The Chair: I am just having a little trouble from looking at the schedule whether you have been allocated 15 or 30 minutes. Do you recall?

Mr Sauve: Probably 30.

The Chair: Let's try with 15, and we will see how far we get, okay? We will try to saw it off in the middle. Would you just identify yourselves for the record. We are going to use the same procedure we have been using all day.

Mr Sauve: I am Maurice Sauve from Alexandria, 26 years as a real estate salesman and broker in Alexandria, two blocks away from the registry office.

I came here today to help save a needed institution in Glengarry, which happens to be situated in the very centre—the hub—of the county; that is, in the town of Alexandria. Our county—Glengarry—is composed of four townships: Lancaster, Charlottenburgh, Kenyon, and Lochiel, plus three incorporated towns, Maxville, Lancaster and Alexandria. Its area is about 25 miles wide and about 30 miles long. Its population is about 21,000, well interspersed throughout the area.

Sitting in the very centre of Glengarry is our local land registry office in Alexandria. Everyone knows it is there and uses it when needed. A large majority of the population does its shopping in Alexandria, so they are often in town. Travelling to Cornwall is very much out of their way for most of the general population of Glengarry. Why should they be forced to travel to a strange place when it is already a viable operation where it is now in Alexandria?

There are at least seven real estate companies in Glengarry, most of which are located right here in Alexandria. We all use the registration office on a regular basis for all types of searches, for our vendors and buyers. It will be extremely expensive and time-wasting to have to travel to Cornwall, and why should we when the registry office is already a viable and successful operation right here in Alexandria? None of us has ever been consulted or asked to discuss the closing of our registry office. I have never heard of our Alexandria registry office being a money-losing operation. It would have to be proven to me. Even if it does lose a bit, can you imagine the high extra personal costs the many real estate sales people and brokers, the legal professionals, the business people, the workers, the farmers and the retirees will have to spend to go to Cornwall instead? You have only considered the possible small loss that you will incur. What about all the users of the registry office? Have you considered their extra costs and time?

You talk about increased efficiency. Have you considered how inefficient it is for us to go to Cornwall, 25 miles away, completely away from our work area? Our workload is already too high. Imagine having to add an hour and a half to our time every time we need to use the registry office. How inefficient. Then there will be one more empty office building in Alexandria. Alexandria needs that like a hole in the head. Here we have a needed, profitable institution and

you are shipping it off to Cornwall and leaving us with an empty office building.

I have empty space that I cannot rent, and I can name several others. This will only make the situation worse. It is even worse at the centre of town. We try to encourage the centre of town to stay lively and survive, and you leave us with another empty space. What will we do with it? Keep the registry office where it is and keep everybody happy.

Many visiting lawyers, surveyors, engineers, real estate salesmen, appraisers, business investigators, builders and others use our registry office and afterwards will have dinner at our many fine restaurants, and may even do some shopping. These are people who can well afford a good meal. Our community will lose many thousands of dollars from the loss of these business people. They will have one less excuse to come to Alexandria.

Also, job losses: There are two to four people who work at the registry office. That means lost jobs for now and in the future.

In closing, I would just like to say that I hope and pray that we are not too late to help you reverse your decision.

Mr Aubry: My name is Pierre Aubry. I am a solicitor practising real estate in Alexandria. I have been there now for nine years. May I, first of all, thank you for the opportunity to address this committee. I certainly hope that after these hearings have concluded you will agree with me that the closure of the Alexandria registry office is a short-sighted initiative.

May I also add myself to the chorus of voices that maintains that no notice of these changes was given by the ministry or ministry staff. I can also tell you that even the registrar at the registry office in Alexandria was not aware of these impending changes until the day they were announced on May 7—hearsay, mind you, but I know that for a fact.

I would like to address the minister's justifications for the closure of the registry offices. There are basically two arguments, the first of which is that closing many of these registry offices will increase the level of service to customers. As you have heard all day, we know who these customers are. I have spoken to members of all these customer groups and I can tell you that the opposition to the closure is unanimous. Closing the Alexandria registry office, I submit, will cause a dramatic decrease in the level of service to consumers.

To put it in perspective, even though the registry office in Cornwall is exactly 50 kilometres away from Alexandria, I can tell you that it takes approximately 45 minutes to get there from the time you leave your house until you are parked. That adds an extra 90 minutes to our day's work just to go and close a transaction in Cornwall.

I might also add that a large segment of the northern portion of Glengarry is serviced by Hawkesbury lawyers. These lawyers will now have to spend approximately two and a half hours on the road to close a single transaction in Cornwall. In my view, that is completely unacceptable.

1520

The Alexandria registry office serves its customers very well. The staff is well known to the community. They are very friendly and helpful. People do not hesitate to go there for information. The office provides a variety of government pamphlets and forms, and it is widely known that those forms and pamphlets are available there. Moving the registry office to Cornwall will simply mean that many of these people will simply no longer have access to that information.

As well, eastern Ontario, I submit to you, is not served by government services as other parts of this province, notably urban areas. Closing the Alexandria office will only remind the residents of the community how poorly served they are, and how little this government and past governments have cared.

To measure the utility of an office or a service by constant standards underplays the significance of distance in these populated areas. Let us make an assumption, that this change is irreversible and that when November comes along, the Alexandria registry office is moved to Cornwall. I can guarantee you one thing: The registry office in Cornwall is going to be in utter chaos. I am a frequent user of the registry office in Cornwall, as well as in L'Orignal, Russell, and the other places in eastern Ontario. There is currently enough room for approximately 15 people to search titles. There is barely enough room in Cornwall now to serve its existing clientele.

In my view, there is absolutely no question whatsoever that come November, the Cornwall registry office will not be sufficient in terms of size. You have heard about the parking problem. Let me tell you as well that even though there is very little parking, there is also no parking on the street, because there are several other businesses in that area. I might advise you that most of the Cornwall lawyers' offices are located on Sydney Street where the registry office is. So it is really amazing to me how the ministry staff think this is going to be carried out. When both the Morrisburg and Alexandria offices are moved to Cornwall, there will be no room to search titles at the end of the month. I can tell you right now, as a practitioner, that the end of the month is a crazy sight in any registry office. It is a crazy sight in Alexandria; it is a crazy sight in Morrisburg; it is a crazy sight in Cornwall. Cornwall will not be able to accommodate it.

The only way they will be able to deal with it is to build a new building, which brings me to the second justification the ministry advances, and that is that these changes will bring about savings in the order of a million dollars across the system annually. I do not have a degree in mathematics, but I can tell you right away that the cost of maintaining the Alexandria registry office for 20 years is far less than the cost of building a new building in Cornwall.

There is talk in Cornwall right now that they are going to build a new provincial institutions building, which will supposedly house the courts and other ministry offices. We are told that perhaps this is where the registry office will go. At this point, there are no plans on the drawing board. Nobody can tell us what is going on, so if we assume that we are only going to build a new registry office, I would

submit to you that the cost of doing so will be no less than \$4 million. I cannot project the high side. To put the registry office in a larger provincial building, I submit to you that the cost of that building will be in excess of \$20 million. To me that is not fiscal responsibility, and I hope you understand where I am coming from.

I received a letter dated June 26 from Carol Kirsh, who is the director of the registry system. She advised me that in 1990-91 the Alexandria registry office handled 5,588 transactions. Of those, 3,546 were registrations. Registrations, I might advise you, cost approximately \$25 apiece. There are some for municipalities that cost zero, but then on the other side you also have applications for certifications of title, which will cost you, I think, \$850. In the end for calculation purposes I have simply multiplied the number of registrations by 25, which gives me \$86,640. The remaining transactions are probably subsearches, which are billed at \$4 a crack, which gives us revenue there of \$8,168. So, a very conservative revenue figure for the Alexandria registry office is approximately \$95,000.

In so far as the cost of operation is concerned, Ms Kirsh advised me that the cost per transaction is \$20.48. If you multiply it by the number of transactions, that gives you a total cost of operation of \$112,000. Therefore, very conservatively, the net loss at the Alexandria registry office would appear to be \$17,000. But mind you, that is bearing in mind that these figures on the revenue side are very conservative.

In my view, \$17,000 is a rather insignificant amount when you look at the complete picture. Historically, the Alexandria registry office is the second oldest, continuously operating registry office in Ontario. It has been there since the mid-1850s. I cannot give you an exact date, but I do know that is when the united counties bought the property for the purpose of building a registry office, so it is somewhere around the middle 1850s. Only the Kingston registry office has been in operation longer. The building, I can assure you, is in very good shape. The registrar has advised me that there are no repairs required in the near future. The only thing that is required is a coat of paint within the next couple of years.

Glengarryans are very proud of their history and they take it very seriously. Many families can trace their family ties on the same farm upwards of 150 years and up to 200 years. There are many bicentennial farms in Glengarry county. The registry office has been part of that cultural heritage. Closing the Alexandria registry office, I submit, is a very insensitive initiative for a community that has been neglected for too long.

As the mayor indicated, our small town of 3,300 has seen a loss of jobs in the magnitude of 600. Unfortunately, no level of government has come to our aid. Closing the registry office is simply hammering another nail in the coffin. If in fact the registry office is closed, I submit to you that the next thing to go in Alexandria is the provincial court and after that the small claims court, probably at the same time. That is mere speculation on my part, but if there is no registry office there, there is even less reason to keep the courts there, so it is just a domino effect, one after the other, and I am convinced of that.

Perhaps I may now, Mr Chairman, address a point that was brought forth by Mr Ferguson.

The Chair: Very quickly.

Mr Aubry: Subsection 4(2) of the Registry Act stipulates that there shall be one land registry office for each county, regional municipality and provisional judicial district. I heard him make reference to the fact that SD&G might be a judicial district. In fact, Mr Ferguson, I can assure you that it is not a provisional judicial district; neither is it a regional municipality. Our feeling is that what the government is doing is not in accordance with the Registry Act. It cannot be done by order in council. Our view is that these changes, in so far as Glengarry and Morrisburg are concerned, can only be done through an amendment to the Registry Act. Those are my comments.

1530

Mr Villeneuve: Mr Aubry and Mr Sauve, thank you very much for your presentation. From a legal standpoint I really appreciate your legal opinions on what indeed the minister had confirmed in reply to a question of mine in the Legislature. Further to Glengarry, do you have land titles in Glengarry on any of your municipalities?

Mr Aubry: No.

Mr Villeneuve: I know you have Indian lands going through there in a very confusing legal description issue that necessitates in most instances a lot more time at the registry office. Could you comment on that, just because of the uniqueness of Glengarry, I believe, with Indian lands going from the Ottawa River to the St Lawrence River.

Mr Aubry: There is no doubt that searching titles in Glengarry county is more complicated than in other counties. There is no land titles system, so it makes it more difficult. We do have to go back and search the usual 40-year period as provided for under the Registry Act in order to provide good title to our clients. Charlottenburgh township, being the most populous township, was surveyed three times in the early 1800s, and that has caused confusion in terms of the titles to many properties. But to answer your question directly, yes, it is more complicated to search title in Alexandria than in other areas.

Mr Villeneuve: Mr Sauve, you are a realtor—you emphasize the fact—and I know very well where both the registry office and your office are situated. How important is it to a realtor to have that registry office within a stone's throw, literally speaking, as you sign up a potential vendor who may or may not know what his legal descriptions are? Could you just elaborate a little bit on how this facilitates the job of the realtor and possibly reduces the legal cost to the vendor and purchaser?

Mr Sauve: In practically every instance we have to go and check it out at the registry office, just to see who the neighbours are, and then write a legal description, if there are any old rights of way going through. There are all kinds of reasons why we have to go and check it. Every salesman probably goes there a couple of times a week. So costwise, to go to Cornwall—

Mr Villeneuve: And that would be compounded by the fact that you have the Indian lands coming through both Kenyon and Charlottenburgh.

Mr Conway: I cannot really think of much. I think this case is building fairly clearly and I really do not want to waste the committee's time sort of begging the obvious. I think these gentlemen, like the previous presenters, have made the case, particularly around distance. I know those highways fairly well. I did not realize it is 45 minutes from Alexandria to Cornwall.

Mr Aubry: From the time you leave your office until the time you are in the registry office, yes. That is assuming you do not have to go around the block five times trying to find a parking spot come November.

Mr Conway: The distance factor in all these rural eastern counties is very significant and I am certainly very sympathetic to what the witnesses have said.

Mrs Fawcett: Just further to that, there are all these extra distances, extra costs, that seem to be floating out there. Who do you feel will bear the brunt of those?

Mr Aubry: The consumer, obviously. The first thing I am going to have to do is buy a cellular phone. I am probably going to have to buy a new vehicle sooner than I had anticipated. I might have to hire somebody else. If I do not hire somebody else, I will simply have to pay more for the clerk we will have to try to organize with other lawyers. It is going to add to each transaction a minimum of \$100 to \$150 in legal costs. There is no doubt about it. There are the surveyors as well.

Mrs Fawcett: What percentage would that be?

Mr Aubry: Let us take the average house in Alexandria and area that sells, let's say, for around \$70,000. Legal fees on that type of transaction, depending on how difficult it is, will probably vary between \$650 and \$800. Now it is going to be more like \$750 to \$1,000, I can guarantee you.

Ms Harrington: I thought I should mention that I represent the city of Niagara Falls and to my knowledge we do not have a provincial court in Niagara Falls. We do not have a land registry office either. So we have people going back and forth to an adjacent municipality. I think it is unfortunate. I know it is not a good situation, but I just wanted to let you know that it is happening in very many parts of this province.

Mr Conway: Surely the distance between Niagara Falls, Welland and St Catharines is qualitatively a different situation than the trip from Moose Creek to Lancaster to Morrisburg.

Ms Harrington: We are talking 45 minutes one way. From Niagara Falls downtown to Welland would be 30 minutes, so we are in the same sort of ballpark.

I want to try to help the committee. We do not have the answers. You have the questions. I would like to ask our assistant deputy minister to help us with a couple of things. First of all, the question of the status of SD&G as either a county or a judicial district, and whether it has the legislative authority or the requirement to have an office there, and second, the question of the Cornwall office: It has been made clear in several presentations—or it seems to

be—that it is at maximum capacity at the present time. What you have told us is that there is absolutely no way it can handle anything further. Is that correct? Is that what you are saying?

Mr Aubry: That is correct.

Ms Harrington: Okay. I would like to ask Mr Daniels, I believe it is, if he could comment on those two questions.

The Chair: Is Mr Daniels here from the ministry? Sir, if you could please come forward and identify yourself for the record and take a chair, Ms Harrington has a couple of specific questions.

Ms Harrington: The first was about the status of SD&G.

Mr Daniels: I am not a lawyer and I will quote from our legal opinion on that. If you bear with me, I will just read it into the record.

"Section 4 of the Territorial Division Act provides that Stormont, Dundas and Glengarry, Leeds and Grenville, Prescott and Russell are united for all purposes not otherwise provided by law. Subsection (2) goes on to provide that they have in common as one county all courts, offices, institutions pertaining to counties. If these can be treated as one county, of course, the offices can be combined.

"However, section 4 of the Registry Act is somewhat confusing. Subsection (1) states the registry divisions in existence in 1925 are still in effect, 'subject to the provisions of this act, except where otherwise expressly provided in any general act.' Subsection (2) concludes with the statement that there shall be at least one registry office in each county, regional municipality and district.

"Notwithstanding section 4 of the Registry Act"—this is our lawyer's opinion—"in my opinion, combining these offices authorized under the Territorial Divisions Act, the counties shall share all county institutions and are to be treated as one county unless other legislation specifically provides otherwise. If the united counties can be treated as one, a single office is authorized under the Registry Act and section 4 itself provides the authority for changing the registry divisions." So we are saying legally we can consider it as one unit, as one entity.

Mr Conway: Could we get a copy of that?

Mr Daniels: Sure. Did I read it too fast?

Mr Conway: No.

Mr Daniels: For sure, put it in the record.

Mr Conway: It certainly seems highly interpretative and I would like a referee to just—I am not a lawyer, but I think I know the bail-out clauses when I hear them and I think I heard a couple in that, but at any rate it is good to have.

Interjection: Copies for everybody.

Mr Daniels: Sure.

Ms Harrington: Certainly that is the crux of what we are talking about here. With regard to the floor space and workable space for people in the Cornwall office, how would you handle that?

Mr Daniels: In each office we analyse the existing office's floor space. In the office in Cornwall, we feel and our study would indicate there is enough floor space and adequate space to maintain the files. The important thing to also remember is that the staff from both offices, the front-line staff, will be coming along with the records, so the service level should be maintained. The people who were providing the service in Alexandria, the people who were providing the service in Morrisburg, will continue as public servants.

Ms Harrington: And is there room for them physically?

Mr Daniels: Yes.

Mr Villeneuve: Art, have you been there lately?

Mr Daniels: Yes, I have. I have been to the Cornwall office.

Mr Villeneuve: I am afraid I have to disagree.

Ms Harrington: I think this committee should take a tour.

Mr Daniels: Do you want me to answer the question about consulting, because I think a lot of people have asked if there are regular meetings—

The Chair: Order, please. I think we are going to have to keep moving along. Thank you very much.

Mr Conway: We are going to have a chance to have Mr Daniels back.

The Chair: Yes, he is going to be back tomorrow for two hours.

Mr Aubry: Sir, may I address the question raised?

The Chair: To the committee.

Mr Aubry: Yes. I am not disputing the fact that there may be adequate room in the registry office for its records, but I will tell you how they are going to do it. Right now, they have filing cabinets which are four drawers high. They are replacing those with filing cabinets which are five drawers high. That is how they are taking care of the space in the back room.

The main problem is the users in the front room where the public is. There is room for 15 people to search title right now. In Alexandria, in our small office, 10 people can sit around tables to search. In Morrisburg, I am not exactly sure but if my memory is good it is around eight. If you want to be able to accommodate the same number of people at the same time, there is no physical room. I do not care what that gentleman says. He is not in there every day and he is not there at the peak periods, either.

The Chair: Thank you, Mr Aubry. I think that concludes the committee's questions. Thank you for your presentation.

1540

RICHARD TOBIN, BARRY LAUSHWAY,
WILFRED PETERS

The Chair: The next presenters, please: Richard Tobin, Barry Laushway, Wilf Peters. I hope I have pronounced all that correctly. You have been allotted 30 minutes for your presentation. We are going to follow the same procedures you have been able to witness. I would ask all

of you to identify yourselves for the record and I will turn the floor over to you.

Mr Laushway: I will go first since I am in the centre. I am Barry Laushway. Seated on my right is Richard Tobin. Both of us are lawyers in Prescott. Seated on my left is Wilfred Peters, who actually works for a living.

I am practising in Prescott as a lawyer in a small firm. There were two of us and I am now alone. I do a great deal of my practice in the real estate law area and I am actually a user of the registry office. I have been practising for about 16 years now. Most of the time spent by me in a registry office is in the registry office in Prescott.

Some of you may never have been to beautiful downtown Prescott, so we have brought with us a little brochure that many of you have. Hopefully, it will give you a bit of a sense of something we are pretty proud of in the Prescott area. I will be touching on that in the short address I am about to give you, but pictures being worth a thousand words, it is something you can have and follow.

There is a map on the back that indicates where Prescott is relative to the centre of the universe, Toronto. It also has some pictures on the front of something we are pretty proud of, which is our heritage. That goes back to 1783, and I will be touching on that.

Also on the back, in the colour foldout, is the brand-new Prescott marina basin and the newly constructed lighthouse in the Prescott marina basin, which is a 120-year-old heritage light that has recently been restored.

I have handed in a presentation that I would like to quickly go through, if I might. I think most of you should have it by now.

We are indicating that the Prescott registry office is in the centre of beautiful downtown Prescott, which is located on the shores of the St Lawrence River halfway between Toronto and Montreal.

The area was originally organized and surveyed in 1783 by Major Jessup preparatory to the locating of the United Empire Loyalists in that area. It was settled by loyalists who were escaping persecution from what they perceived to be insensitive government because of the strength of their loyalty to the British crown and the monarchy. It was one of the first areas of Upper Canada to be settled and has a long and proud history on the river, revolving around loyalty and hard work.

In 1834, the Legislature of Upper Canada passed an act to incorporate it as a police village and later as a separate municipality. The people of Prescott have a very strong attachment and respect for their rich heritage, and each summer we hold a 10-day festival, which you see pictures of on the brochure, called Loyalist Days. It is highlighted by a three-day battle, with period re-enactors dressing up in costume and pitching their tents and shooting guns at each other and riding horses back and forth. It is a wonderfully authentic reproduction of earlier battles.

We have resisted in Prescott, to a large extent, the trend away from decline that has hit many small towns in Ontario. We had until recently a very vibrant economy with a strong base industrially and a wealthy commercial core. We have been hurt very badly in recent times by the recession, as

everyone has, but in particular in Prescott by the cross-border shopping problem.

My friend Wilf Peters, who is with us, is the president of the chamber of commerce in Prescott and owns some appliance stores that he will tell you about. He will be able to comment a little more particularly on how cross-border shopping has hit Prescott in the vital areas.

Cross-border shopping, as everyone knows, has been brought on by the GST, in part, and by the currency problem and the free trade agreement. Our Main Street commercial zone now has the highest vacancy rate that any of us can remember.

Because we are so proud of our heritage and our present status, the proposal to move the registry office from Prescott was particularly hurtful. It is seen by many private citizens as another diminution of our heritage. For years we had the impression under some of the former governments that the maps of Ontario that were located up here ended at Kingston. We were reminded of the original maps of the explorers who sailed the world. At the end of the civilized world they had a sign that said, "There be dragons." We thought that was what was in eastern Ontario, that there was a sign that said, "There be dragons," and it was uncharted land.

We had all hoped that the new government, when it was elected on a mandate to listen to the concerns of the little guy, would not fall victim to the TBD syndrome, the "There be dragons" syndrome. You can imagine our horror when one of the first announcements that affected our small town was that one of our oldest and most important institutions would be closed without any opportunity for public input or comment.

We, the people of Prescott and Grenville county, believe that the decision to close the Prescott registry office is a tragic mistake. It is located in a beautiful two-block area surrounded by stately old churches and manses. It is well away from the busy commercial zone and was a sea of tranquillity for the serious user and casual heritage buff. It is a beautiful old building, about 125 years old.

It was renovated about 10 years ago. People in your ministry might have a better idea of the cost. We estimate it cost \$250,000. The renovations were very carefully done to make them appear as if they were original and they have done a beautiful job. They have stones that were brought in to match the old registry office and it is very nicely done. It would seem to need no immediate upgrading or work and it is one of the nicest, best-lit registry offices anywhere I have been.

What may be different about this one is that it is owned by the government and it is in a zone in the Prescott zoning map that is R2. That means if it is not used as a registry office and if it is closed down, you have a white elephant on your hands that can only be used for a residence. Unless someone has a really wonderful idea of how to convert a registry office to a residence, you have a building that is now maybe worth \$250,000 to \$500,000 that you cannot sell for \$20,000. It cannot be used for anything other than residential if this use is discontinued.

The Prescott registry office has consistently won efficiency awards, and plans were on the table to make it

wheelchair accessible by the fall. I do not know what the cost would be, but there is just one little step up and I suspect it is just a little bit of concrete. On the other hand, the Brockville registry office where we have been sentenced to go is in a leased basement area in a building not owned by the ministry. It is beneath the Bank of Nova Scotia. You have to go down three steps into a dingy sort of entrance. If you turn the wrong way you end up in the hairdresser's and if you turn the right way, you end up in the registry office. It simply does not have the character and feel that the Prescott registry office has.

It takes approximately five to 10 days to have your documents abstracted. If you do not work in a registry office, you may not understand how important that is, but if you register your deed today, no one will know about it for 10 business days and someone could theoretically come along and buy your property without being aware that you had already sold it eight days ago.

By contrast, the Prescott registry office abstracts are up to date daily. Prescott registrations average about 500 per month; Brockville is double that. My guess is that the Brockville budget is about five or six times as much. I think if you wanted to look at trimming some costs, maybe you should look in Brockville. You have heard from earlier speakers and I agree—I had it in my presentation—we estimated the added cost per transaction to be around \$100.

I spoke this morning to a Kemptville lawyer who expressed something I had not really appreciated. They are particularly hard hit. Kemptville is halfway between Prescott and Ottawa. If the Morrisburg registry office is moved to Cornwall and the Prescott registry office is moved to Brockville, I have the scenario in here. They may have two clients who live one mile apart. To complete their real estate transactions the lawyer would have to drive 80 miles to Cornwall one way, 70 miles to Brockville and 40 miles home. That is assuming he does not have to stop in and drop off the trust cheques so that they can actually get their money on that day.

Kemptville lawyers are expecting they will have to actually send their clients away, clients whom they have acted for for years, because on busy closing dates they just simply cannot and will not be able to get to two registry offices that far apart.

In conclusion, we would urge the government to delay the implementation of the closings, at least until the matter can be studied further and all of the true costs to the public are factored into the equation.

I have also filed, if I may refer to it, a letter I sent as the president of the Leeds and Grenville Law Association. Our association passed a resolution on June 13, 1991, unanimously requesting that the government reconsider the announced closure. That resolution was also adopted by those practitioners who are from Brockville, Gananoque and other parts of the united counties, not just from Prescott.

It says at the bottom of the letter that there is a bit of a historical pattern that has repeated itself, and it might tweak your interest to know that this is not the first time something like this has happened in the Prescott area. Originally the county seat was to be Johnstown, which is three miles away from Prescott in Grenville county. In 1808

the records were removed by Brockvillians, some of them by force, the corporate seal was ripped off the front of the building of the county seat in Johnstown and removed to Brockville and the records have remained ever since in Brockville, about 170 years. We see history repeating itself. They are trying to steal more of our records and take them to Brockville.

Those are all the submissions I have, and I thank you for your patience.

1550

Mr Tobin: As Mr Laushway has mentioned, my name is Richard Tobin. I have practised law in Prescott for the past 32 years. A large part of my practice is real estate, and therefore it will be obvious to you that it would be in my best interests to have the registry office for the county of Grenville remain in Prescott. However, I hope I can convince you that what I have to say applies not only to myself and the other law firms in Prescott but to the general public as well.

I personally am in the registry office in Prescott an average of two or three times a day. If the registry office is moved to Brockville, this will mean a 25-mile round trip and it will be impossible for me to avail myself of the registry office facilities as I have up to this time.

Also, I have a fairly large agency practice, particularly Ottawa lawyers requiring searches, subsearches and closings on their behalf. I have generated this business over a number of years. Up to now, I have handled it efficiently and that is worth while for me to do. This cannot be handled efficiently and economically by any Prescott lawyer who has to travel to Brockville. All of that business, in my opinion, will go to Brockville lawyers.

Also, the 25-mile round trip from Prescott represents approximately three quarters of an hour. However, our confrères in Kemptville at the north end of the county will experience a round trip of approximately 75 to 80 miles instead of the 50 miles it takes to go round trip from Kemptville to Prescott at the present time, which is long enough for them as it is. There is no question that you have heard people comment on this before, that the additional time and expense in travelling will have to be passed on to our clients.

Lawyers are not the only persons using the services of the Grenville registry office. I know that on any given day there will be members of the public—bankers, farmers, historical society members, tourists searching family background, municipal officials and title searchers. A great number of these people reside in Grenville county and it will be inconvenient and expensive for them to travel to a registry office outside of Grenville county.

I would suggest to you that the registry office can be considered as a viable small business in our community. It hires staff, hires contract personnel, purchases supplies and attracts customers to the town.

In 1990, the registry office had 6,794 registrations—6,800 approximately—which represent \$170,000 in registration fees alone at \$25 a fee. I would estimate that there is probably another \$200,000 to \$300,000 in land transfer tax collected in the Grenville county registry office. My

opinion is that the closing of the registry office would be a severe loss to Prescott which has serious problems, as you have already heard, with border shopping and also competition from the larger communities.

Persons who use the registry office facilities buy in Prescott, and I am aware that many of them have lunch in the local restaurants. I have enjoyed lunch with many of my confrères from Ottawa, Renfrew, Smiths Falls and places like that. Also, I know they purchase goods at our stores such as the Hathaway Factory Outlet Store, and I suggest that these stores will suffer if the Prescott registry office is moved to Brockville.

Mr Laushway has mentioned, and I can confirm, that the Grenville registry office is extremely well run and its recent addition provides an excellent facility for the public use. I personally have serious doubt that the Brockville office will be able to handle the business of both counties in its present location, not only for floor space but there will be traffic in there that will make it extremely difficult on a busy closing at the end of the month to have real estate deals closed efficiently.

In closing, it would be a pity if Grenville, a very proud historical county, cannot be served by a registry office within its own boundaries, and I trust the Legislature will consider again the impact on our small town. I thank you for your attention.

Mr Peters: I am president of the Prescott Chamber of Commerce and owner of several small businesses in the town of Prescott. It is a very small community of 4,500 people. Every job that is lost in our town means a lot. It is not like a big city. When you lose 50 jobs, people get concerned. If there are two jobs lost in a town like Prescott, we are very concerned. The registry office has been there for many years. Everybody is very proud of it and we would certainly like to keep it there because we need all the business we can get. We need all the people in our town we can get. The stores are hit very hard this year. Business is down roughly 30% over last year. We just cannot afford any more losses.

At the chamber of commerce, it was brought up at our executive meeting that the registry office was going to close and it was unanimous that everybody was very concerned about it. We sent a letter about our concerns and we would certainly like to see it left in Prescott. I think it is a very important thing because people are talking about consolidating things and bringing them to bigger centres, and we would like to see it left here. I think it is more efficient the way it is.

Mr Villeneuve: Gentlemen, thank you for being with us today. I think you have expressed what had been expressed previously. Kemptville, or the surrounding areas in Oxford on Rideau and South Gower are probably the most rapidly expanding areas to accommodate people who work in the city of Ottawa and would be commuting back and forth. I think it is well taken. That concern was expressed to me as well by the legal profession in the Kemptville area whereby they are situated in the northeastern section of Grenville county. The removal of the registry office from Prescott to Brockville would basically have these

people or their title searchers on the road for half a day to and from the work they have to do at the registry office. I think the point is very well taken that, given the location and the activity occurring in that area, they have cause for concern. The \$100 additional cost per transaction may be very low indeed. You may want to comment on that, particularly to those whom I try to represent in the Kemptville area.

Mr Laushway: If I may answer that, I was commenting on what it would cost us in Prescott. We are estimating the added cost of at least one trip to the registry office in Brockville to search the title, and there is generally a follow-up of any problems that arise on the title search, and the attendance on closing. I estimate that to cost an extra \$100. The lawyers in Kemptville are so despondent about this that they really feel it is going to cost them so much they simply cannot accept real estate transactions, particularly for someone who lives in Mountain township which, as some of you may know, is five miles from Kemptville. They may have to send them 70 miles away to get a lawyer. So if it does not cost the lawyer extra time, it will cost the consumer to drive at least once to a lawyer in Cornwall to sign the documents, review them and meet his lawyer.

Mr Villeneuve: I think you make the point very clearly. In the area I represent, the largest community is Alexandria with 3,300 people, and the community and the area I represent stand to lose three registry offices that have been there for probably as long as any registry office in Ontario. This government needs to take a second look at it.

1600

Mr Conway: The distance from Kemptville to Prescott is what?

Mr Tobin: It is 26 miles; 12 miles or so to Brockville.

Mr Conway: The upper corner of Grenville is what, Hallville?

Mr Tobin: Yes.

Mr Conway: What is the most westerly corner of Grenville?

Mr Tobin: Merrickville.

Mr Conway: Merrickville. So the way it works now, all that business flows into Prescott. For those people in Merrickville going to Brockville, it is how much further?

Mr Tobin: It is closer, or both the same distance, Merrickville to Brockville.

Mr Conway: But it is in the Kemptville area.

Mr Tobin: There are no lawyers in Merrickville. Mr Villeneuve touched on something and it is very important. A lot of the business now is being generated in the Kemptville area.

Mr Conway: Ottawa-Carleton is the dynamic that is causing the growth. Everything, whether it is in Russell, Kemptville, Almonte or Arnprior, is all spinning out of the Ottawa-Carleton area. It just so happens that four or five of those old counties are contiguous or run into that area. Your problem is essentially the same as Lanark. The growth in Lanark is closer to Ottawa. The closer you get to Ottawa, the more the growth and the greater the pressure on the office. I am just trying to imagine again that situation

in Kemptville, so just repeat that story someone told here earlier. I know the area fairly well, but I am trying to visualize that problem you were describing for Kemptville again.

Mr Laushway: That was me.

Mr Conway: Just take me through it. I guess I want to ask you, in fairness, how typical is this? I take it from your testimony, and lawyers always want to understate the case, that this is presumably typical; this is not the one-in-a-thousand case.

Mr Laushway: I spoke to a Kemptville practitioner this morning who is very despondent about it and he said it is a very typical thing that can happen. The split-off area is about five miles outside of Kemptville, so he has a 50-50 chance of going either to Brockville or to Cornwall.

Mr Conway: When you say the split-off area, explain that again.

Mr Laushway: Mountain township and—

Mr Villeneuve: Dundas and Grenville county line.

Mr Laushway: Dundas and Grenville county line is very close to Kemptville. The scenario is on the pamphlet actually. You might be able to get a bit of a sense of it. If you left Kemptville, you would have to drive down Highway 16, which is two lanes and may be so for some considerable time, pick up Highway 401 and drive to Cornwall. That is 70 miles one way. You might then have to drive back to Brockville on Highway 401 to close the deal for a person who lives five minutes away from the first person. That is 40 minutes to an hour to get to Brockville, and then you are 40 minutes to an hour home. It is not the worst-case scenario.

Mr Conway: That is because the Dundas traffic is being directed into Cornwall and the Grenville traffic, under this plan, is being directed over to Brockville.

Mr Laushway: Yes.

Mr Ferguson: I think the delegation before us at this point is fairly representative of individuals who have appeared to date. We have a representative from the legal community as well as the business community and I want to make the observation that if I listen to these individuals, eastern Ontario is going to come to a grinding halt if we close one registry office.

Mr Villeneuve: Keep chipping away at it and it will.

Mr Ferguson: That has been the resounding message I think we have heard today and quite frankly I have to dismiss that. We have continually heard that costs are going to increase anywhere from \$100 to \$150 per transaction. Quite frankly, to any one of the gentlemen who cares to answer it, why as a cost-conscious consumer would I pay an extra \$100 or \$150 to a lawyer in a transaction when I could quite simply jump in my car and go to the municipality 12 miles down the road and retain legal counsel, thereby saving myself \$100 or \$150? Is not the real question here that you are going to have to operate with a lower profit margin than you are operating with now?

Mr Laushway: Actually, it is quite a bit more than 12 miles. If you live in the Kemptville area you will have to drive 70 miles to Cornwall to get a lawyer who practises in

Cornwall and you will have to do it three or four times on a typical real estate purchase. You have to go down to review your offer to purchase with the lawyer. You have to go down to get instructions from him on the closing arrangements. You have to go down to bring him money. You have to go down to sign the deed, and you will have to go to get your key. So there are at least four trips to Cornwall. That is real people, not just lawyers.

Mr Ferguson: Some of the users of any transit system across Ontario might have to walk five or six blocks to get the bus. The fact of the matter is that you strategically place these institutions and facilities so they serve the greatest share of the population in any given place.

Mr Villeneuve: That is where they are now.

Mr Ferguson: You are giving us the outside example.

Mr Villeneuve: That is where they are now.

Mr Ferguson: That is the furthest point where somebody is going to have to drive? Is that not the case?

Mr Laushway: Yes.

Mr Ferguson: Yes, so that is the extreme example.

Mr Laushway: Yes.

Mr Ferguson: That certainly is not going to be the average. It is going to be the outside extreme case.

Mr Peters: I am a businessman in Prescott. I deal with these people as lawyers and I certainly do not want to deal with a lawyer in Brockville because I run a business in Prescott. I do not know why you would want to send people away from our town to do business when you are already trying to take our registry office away. Now you are trying to tell us that our people should be doing their business with lawyers in Brockville or other places.

Mr Ferguson: No, I am not telling you that. I think the legal community from Prescott is saying that because it is saying: "We're not prepared to eat any of that cost. We're going to pass that cost on." I want to tell you quite frankly that people will get in their cars and drive 12 miles to save \$10, let alone \$100.

Mr Peters: Maybe I am not a professional person and maybe I am not that intelligent, but I think I just understood somebody to tell me that if I want to buy a piece of property in Prescott and own a business in Prescott I should go to a lawyer in Brockville to save money. That is what I understood.

Mr Ferguson: I am not telling you to do—

The Chair: Order. Mr Drainville.

Mr Ferguson: Because people will drive 15 miles to save—

The Chair: Order. We have had thorough discussion on that.

Mr Drainville: One of the messages that seems to come through very loud and clear is the difficulty of these long distances. I have to understand on the one hand that it is wonderful to have a land registry office in your community, but as somebody who lived at the top end of Lennox and Addington, at the top end of Hastings, at the top end of Frontenac county, I had a lot farther to go than any of you will have to go to get down to the land registry office.

People are selling and buying land all the time and they have to go down to the county cities at the very bottom, on Lake Ontario, and you do it because that is the way it is. You have to do business. To sell land, you have to go to the land registry office and to make it sound like it is an impossibility—that it is going to be more inconvenient, there is no question. But to say it is an impossibility for business to go on because of this or that—if not an impossibility, I am sorry to use the extreme case—to say it just is not going to work out for businesses is nonsense. Of course they are going to do this. Of course they are going to go to the land registry office wherever it is.

Mr Villeneuve: Keep chipping away at it.

The Chair: Any last comments from the presenters?

Mr Laushway: I remember from university debating days that this is called the straw man concept. He just answered something we did not say. We did not say the town of Prescott was going to blow up and dry away. I do not think anybody said Alexandria was going to blow up and dry away. What we are saying is that the economic advantage to closing the Prescott registry office is not there. I am not talking about a situation where we set a new registry office in an area where it had not been before. All we are asking is whether you have really clearly studied the economic cost of what is being proposed here, and he just answered his own question, with the greatest of respect.

1610

COALITION AGAINST THE CLOSING OF THE REGISTRY OFFICES

The Chair: The next group of presenters? We have set aside 30 minutes. I would ask them to identify themselves and whom they represent for the record, and turn the floor over to you immediately.

Mr Janzen: My name is Robert Janzen. I am a lawyer in the village of Arthur. Sitting next to me on my right is Bert Moore, who is the warden for the county of Wellington. Sitting on his right is Bob Shaw, who is a real estate agent in the village of Arthur, and to my extreme right is Doreen Hostrowser, who is the reeve for the village of Arthur.

You have before you a brief that comes from the Coalition Against the Closing of the Registry Offices. That comes from a joint committee representing the south Grey-Durham area, and the north Wellington-Arthur area. I would like to have Bert Moore begin with his comments to the committee.

Mr Moore: Thank you for hearing us today. It has all pretty well been said. I have a letter here, so I am just going to take it off the cuff and try and tell you something a little different.

We in the county of Wellington have two registry offices. One is in Guelph, which is maybe not in the county of Wellington, but the point I am trying to make is that the county owns both of them and we have been trying to be good landlords. The Ontario government rents them from us and we have always fixed them up when we had to. I think we charge reasonable rent, and if not, you can take us to the Rent Review Hearings Board to fix that up.

Right now we have, I believe, a two-year lease with a six-month escape clause. We have not, as yet, heard officially that the registry office in Arthur is closing, which is good. If the one in Arthur closes, the people of Mount Forest would have about 80 kilometres to drive to Guelph. There is no parking there. That is one of the reasons I ran for warden: I get a parking place. The other 20 reeves have to go over to the Eaton Centre and pay for parking and walk. There is absolutely no parking there, and they tell me there is no room in the Guelph office to house the records from Arthur. We cannot expand there; we have no more room. It does not make sense to move things from Arthur to Guelph, in my opinion.

The other thing is that all we have heard is this million dollars we are supposed to be saving by closing these offices. The two offices in Arthur and Durham are making a profit, so would you please tell me how you close something that is making money to save money? I cannot figure it out.

Mrs Hostrawser: We have a limited time frame, so I had better read my statement, because I have a tendency to get off on a tangent. Mr Shaw and Mr Janzen will relate the inconsistency of numbers presented to us by the ministry, along with the refusal to share the facts these closures are based on.

As reeve of the village of Arthur, I was appalled at the decree from on high to close our registry office. Here was a service that generated revenue, with no complaints about buildings, personnel or service, to my knowledge. This is another case of 120 years of heritage being lost, just swept away by a numbers game.

The department in the government responsible for this action showed its disdain of small communities when its ad in the local paper declared the registry office closing, while over the page, the county—which still has not been officially notified of the closures, and it is the landlord—was advertising for cleaning staff for the next two years because the government lease is not up until then. If you do not think that showed egg on everybody's face and everybody looking foolish, it certainly did.

This closure action has been made with very little thought or consideration for anything other than a few numbers conjured up out of who knows where. Do civil servants care? Not a bit. Ms Kirsh, a very capable young woman who should find something constructive to do, not destructive—anyway, she informed us at the Guelph meeting that she had no intention of changing her mind—her mind. I would like to ask who runs this provincial government? The people in my area are realizing it certainly is not the elected politician.

Take a look on the map of south central western Ontario. If the offices in Arthur and Durham are closed, there is a large hole. A large number of people in a huge geographical area are deprived of easy access, affordable servicing, plus the province loses its only presence in the area. Talk about fairness. Apparently, this only applies if you live in the GTA or large cities. Others in Ontario do not seem to count, and we are wondering what we are. Are we second-class citizens? Certainly that is how we are feeling.

The government is moving a Toronto office 66 feet across the street. We are talking 66 to 70 miles, from the north end

of Wellington county, in the snowbelt area, no less. Ms Kirsh has some numbers. Someone else should look at the people side of this equation, the flesh and blood of this province, the ones who pay the bills and vote.

I wrote to the minister, as reeve of Arthur, on May 16, 1991. She did respond on July 2, 1991 with a statement that she is "confident that the majority of the clients and taxpayers will benefit." That is pure crap. Whoever wrote this letter, plus the minister, have no concept of distance or the costs this will add to every transaction in our geographical area. It is a rather condescending remark also, as it is obvious no one took the time to check distances or costs before they wrote me back. Here again, they just looked at one side of the equation.

We held a public meeting, because in our area this is an important issue. It was well attended, considering holiday time and people's commitments to coaching and everything. Every municipality in the area, the townships, towns and villages, were well represented at this meeting—everyone but the ministry. They had been invited so they could hear for themselves other opinions on the subject. They did not see fit to send anyone to our meeting, but saw fit to send someone to the Cambridge meeting. Here again, cities are more important. I am getting a little sick of provincial bureaucrats who think no one lives a useful existence if he lives more than six miles north of Highway 401.

The added costs—travelling, loss of office time—to municipalities alone will be substantial. The centralization causing loss of service was best said in our local paper. This was talking about the meetings we held. It said: "Most of the area municipalities had at least one representative in attendance, plus our MPP. To no one's surprise, there was no representation present from our NDP government."

What does the future hold for north Wellington? In fact, what does the future hold for all of rural Ontario? If our politicians do not wake up soon to the fact that they are eroding the future of small-town Ontario, there will not be any life left in rural Ontario.

The municipalities are aware of policies that always dump costs on to the taxpayers while making it appear as if they are having savings. Actually, all they are doing is shifting the money to a favoured project somewhere.

Last year, Wellington county did an in-depth county review—if it is not county review ruining my summer, now it is registry offices. Anyway, registry offices were not broken out, so were not included in the study. The option of reinstating the running of registry offices into the county system could have been studied at that time. We, the local municipalities and the county, could very well disentangle this whole mess. Just give it back to the counties. The only reason I can see that the government will not consider this is that it must be making money from registry offices or we would have had them dumped on us by now.

1620

Around the registry office in Guelph, which I want to draw to your attention is not in the county, there is no parking. That has been mentioned. The Guelph office is full now. Therefore, if you add the Arthur office, they are going to need a new building. Now where are the savings? This whole concept is a Band-Aid approach, one small

part, and it only adds costs. The government should use good business sense and wait until Polaris comes on stream, then make decisions appropriate to the circumstances.

Our office is a problem. The Arthur office meets all the building codes. Our building inspector checked for us. It could be enlarged or there are two facilities that come to mind that could be contracted. Mind you, I could add that if you want to centralize everything in the county, Arthur is about the centre of the county. You could move Guelph up to Arthur and build a good building there.

People here at Queen's Park are always talking about protecting and enhancing rural communities. The action by this government department blatantly contradicts this. The government is perceived as speaking out of both sides of its mouth. It talks about good planning. The government says fewer severances for rural areas. Therefore the growth should be in urban areas, and we do have urban areas other than Guelph.

Arthur just opened a new sewage treatment plant. Palmerston and Drayton did a few years ago. Harriston has updated its. Clifford is working on plans for one, and Fergus is expanding and building new facilities right now. This is only in Wellington county. When the economy dictates, expansion slated for our area is great. This government wants to add two hours' travelling time and a minimum of about \$320 in additional fees—\$120 for lawyers and \$100 for surveyors—to every transaction. Now who has the blinkers on? This is not just add up transactions and divide by the number of lawyers in the area. We are talking about efficient, low-cost servicing for everyone, not just those around cities and the 401.

There are probably hundreds of things that need fixing in this department, probably in every department. Why are you allowing registry offices in rural Ontario to be closed, moved to the cities, while people are doing without servicing so pet projects in certain departments do not have to be cut? This is the fairness government is going to give the people of Ontario? No matter what political party you represent, you all should be concerned, because all politicians are being tarred with this same brush. I would hope you could do something about it.

This decision, closing registry offices, was well known to be a hot potato. Another politician had been advised politically not to do it a few years ago. Why was this thrown in a new minister's lap? Who is playing politics? We in Arthur know who is suffering for it. As a politician, the minister may not wish to be used for civil servants improving their rating or standing. As reeve of a village whose registry is being closed because we are small, not in the GTA and insignificant in some people's eyes, I resent being used as a rung for climbing the bureaucratic ladder.

I realize the minister is new to this office and probably was and still is unaware of all the implications of these closures. At this time she, the minister, is perceived as weak and being led by her staff. To counteract this perception with the public and gain the respect of her staff, the minister should postpone the closings and give herself and her staff more time to weigh the circumstances, the consequences, and especially to familiarize herself with all the aspects of the decision.

Please, anyone here who has the minister's ear, help her realize the need for rural Ontario to be a part of provincial decisions based on its needs, not the GTA needs. Help her realize the need of provincial presence to be seen, not just heard, in rural Ontario. The so-called saving may not justify such drastic measures as closures. Thank you for your time, and I hope I attracted your attention to get some positive results for us.

Mr Shaw: I would like to thank you for the opportunity to address this committee. I would like to thank Ted Arnott for his efforts in helping to set this up.

I am currently a real estate broker in the village of Arthur, with an office in Elora. These are both in the Guelph area. Guelph is 40 kilometres from Arthur, 20 from Elora. Previous to that, I was a farm machinery dealer in the area for 18 years and I had quite a bit of experience with registry offices, registering personal property security agreements for finance notes, which had to be done in either Guelph or Orangeville.

I have had a lot of experience with Guelph. The staff are very competent and very polite; no complaints, but I cannot see how they can handle any more workload than they presently are. The parking is nil, as was pointed out. Because of the good nature of the Eaton Centre, you get one hour free. You walk several blocks from there and stand in line. It is very inconvenient, to say nothing of the cost.

These costs were mentioned, these few hundred dollars, and as usual it is the small guy who is going to get hurt with that. In a big development deal of \$250,000, a few hundred dollars more does not mean much. It is going to be the farmer trying to sell a few acres of wasteland for \$20,000 to reduce his bank loan who is going to get hurt the most.

It has been pointed out before that both Arthur and Durham are financially profitable. They are profitable entities; they are making money. I cannot for the life of me see the sense in closing them, in one case sending them to Owen Sound, and in the other to Guelph, because I cannot see how it is cost-effective, and it certainly would not give the service to the people of the community that we now get.

That is about all I have to say. Most of it has been said and I do not want to take up your time unnecessarily. I thank you again for the opportunity.

Mr Janzen: I would like to make a few comments as well. The brief in front of you has six areas of dissension and then there are a number of recommendations that are contained at the beginning on pink paper. I am not going to go through all those. I would like to talk about two areas.

One is kind of a summary of much of what you have heard today, and that is that the closing of these registry offices will have an impact on the rural communities. That has been presented on a number of occasions as additional costs that are going to be borne by the community.

I would ask your committee and the members to consider that what is being expressed here also has to do with rural outrage. The rural people feel they are not being heard by the government, that this was a decision that somehow came from an urban area, that registry offices

are being moved to urban areas. What you are hearing is that anger.

How can that anger be addressed by the government? My suggestion is that it can be addressed by listening to those people. That is what they have asked for. We have tried to quantify it in terms of saying there are dollar costs available, but I think it comes down to a request that the government hear before making a decision, that we would like to be consulted, that we would like to be a part of what is going on in Ontario.

More and more, our feeling is that decisions are being taken out of our hands and are being made by people in urban areas, who certainly are doing it to the best of their ability, but they are not taking into consideration the important parts of the rural communities of Ontario.

The second area I would like to address is the area of cost savings. Our brief points out that we had some difficulties in getting the information. Much of it is considered to be confidential within the meaning of the Freedom of Information and Protection of Privacy Act and government officials have told us they are not at liberty to release it. We do have some information.

On page 17 of our brief you will note the figures we have been able to get in terms of the revenues for the Arthur and Durham registry offices and the costs for those two offices. You can see there that in terms of registration fees, each of those offices takes in more than what it costs.

The registration fees, that revenue, is made up of a cost that you pay when you register a deed or a mortgage. When you search a title, there is a search fee charged, and when a person makes a photocopy or gets a copy of something, there is a fee charged for that. Those are the revenues.

1630

In addition to that, the government collects land transfer tax each time a deed is registered when consideration has passed, when an amount is paid for a property. That tax is in addition to these revenues and it is considerable. In the case of the Arthur registry office it amounts, if memory serves correctly for one of the previous fiscal years, to something of the order of \$600 million. They are substantial revenues that go to the government and they are collected at no cost, we would submit, because the costs are already covered in the registration fees and the related expenses that are charged for.

Our submission to the government is that here is a service that is paying for itself, that should be considered and looked at as a service that is capable of paying for itself. It does do that, so there is no rationale then for withdrawing it.

I think you will hear from Mr Daniels that there is no relationship between the revenue that comes in and the cost that is attributed for these registry offices. My comment to the committee is that this should not be an argument that carries weight. It may be done for certain budgetary purposes, but it also is true that for some purposes they do calculate the relationship between the revenue and the cost. You can be assured that if the cost of running the registry offices exceeded the revenue, there would be an increase in the registration fees to cover the cost. Accepting that

principle, then my submission is there is really no cost to the government that needs to be saved.

The second question has to do with whether there are real savings. I will address both of the comments that have been made about savings. One is the \$8 million in capital improvements. You have heard that in the case of Arthur and Durham, those are offices that are owned by the county governments involved, so any capital improvements that would be incurred would be incurred by the counties involved. There would not be any expense to the government. Several other of the offices, you have heard today, are also owned by the counties.

You have also heard that it will be necessary, in the case of Prescott and Perth, to build new offices. There will be increased capital costs that will be necessary. We were also told by Carol Kirsh, regarding the Guelph office, that it is expected that this office will also be overloaded and that moving the Arthur registry office registrations into the Guelph office will raise the priority of the Guelph office for a new office. I submit to you that this is not very good planning. In fact, that would not be necessary if the Arthur registry office were left open.

In terms of the \$1 million which is said to be saved by the closing of these offices, we are told that approximately three quarters of that saving will come from the elimination of 14 registrars' positions. You will hear from Mr Fallis tomorrow regarding the Durham office that there cannot be a saving in Durham, because there is no registrar there. There is now a deputy registrar. That position will not be eliminated, and we have challenged the government to say how much is the saving on the Durham registry office. The response is that they will not tell us on an individual registry office basis what the savings are. We do not know, and we expect there are no savings in Durham.

The situation in the Arthur registry office is that a registrar has been there up until July 15. That person has been promoted to a position in Walkerton. There is no registrar in Arthur now, and it would not be necessary to replace the registrar in Arthur. A deputy could be placed there. The full savings, I submit to you, could be had by simply putting a deputy registrar in the Arthur office and leaving the Arthur office open. There is no saving that can be achieved by closing the Arthur registry office. The saving has essentially been had now by taking the registrar out of that position.

Those are my submissions with respect to the costs. I think I will terminate my remarks there and allow questions.

Mr Arnott: I would just like to commend and congratulate the panel for the presentation it has presented. I appreciate the fact that you have come down to Toronto today to participate in this important process.

I have a question for Mr Janzen. I understand that since the announcement you have been corresponding with ministry staff in an attempt to ascertain some more background on the rationale for the decision. I wonder if you would characterize for the committee what sort of response you have been getting.

Mr Janzen: Immediately after the announcement of the closing of the offices on May 7, we began to ask questions. On May 22 we were able to have a meeting in Guelph at

which Mr Daniels and Carol Kirsh were present. At that meeting, I requested information to substantiate the report that was made to the minister upon which the recommendation was agreed to. Carol Kirsh and Mr Daniels concurred that they would be able to provide us with that information. It was to be provided within a space of three or four days. The information was not provided within that time.

As the time got longer and longer, it became apparent that the information would not be presented and the reason that came up was that the Freedom of Information and Protection of Privacy Act prevented that information from being released to us. I accept that. However, it is an indication the ministry staff in this case were not really aware of what they could and could not do. It is an honest mistake. I suspect there have been other honest mistakes that have been made in this matter.

Mr Arnott: My second question is to Reeve Hostrawser. It has been said many times that the minister's main excuse for the decision is to save money, to save \$1 million a year and \$8 million in capital costs. I have spoken to the minister a number of times informally and I have even suggested to her what you mentioned today. If an office has to be closed and a new office has to be built—because the combined business of the consolidation of the two offices, Guelph and Arthur, would be too much for the one office in Guelph—if they are really interested in saving money, the land would be cheaper in the county, in Arthur, for example. I believe she sort of laughed it off. The presumption is that you cannot expect the people of Guelph, who have for a long time been used to local provincial government service, to drive 45 minutes way up north somewhere, which is exactly what the government is asking the people of the county to do.

I would go a little further than what you have said. I think basically what the government has done is tell rural Ontario and the people of the county of Wellington that they can go to Hades. I wonder how you would feel about that comment.

Mrs Hostrawser: I tried to mention that when you come from the rural central area, the farm area and small urban areas, Queen's Park sometimes has trouble realizing that if you are not a city or if you are not within a six-mile radius of Highway 401—they do not think you do anything up there, or can do, I am not sure which. I was really disappointed in this government, that this is basically what it told us, because on the one hand, I think in the brief it says this government was saying, "Rural Ontario, we have to enhance it." This is what I say: This department just blatantly contradicted that whole statement.

1640

Mr Brown: I would like to thank you for appearing today. Just to comment, I represent a northern riding, Algoma-Manitoulin, but I spend some time through your neck of the woods trying to get to where my parents live in Sarnia. It is a beautiful part of the world and the finest part of rural Ontario perhaps.

I am a little puzzled by the approach of the government here. One of the things we think is important in our party is that we provide civil service jobs through the province.

We had undertaken as a government to move jobs out of Toronto and into the west of the province, hopefully trying to get them out into the rural part of the province as we went.

I am also puzzled by the government's attitude, given the fact that this is the party that is for plant closure legislation, that wants to have plant closings justified to the government, so that if you are in the private sector, you should be looking for plant closure legislation where the company has to come before the people of Ontario and explain why it is going to move its company. It seems to me we have not got those kinds of numbers on their own operation. You tell me they have some problems with freedom of information, and yet they seem to have suggested, at least in election campaigns, that the private sector should be able to supply that information when the government here is telling us it should not supply that information.

I am just totally puzzled why the government is moving on with this and I am sure that this committee, after considering this, will change the mind of the minister. At least, I am hopeful. If anyone wants to comment on my ramblings, go ahead.

Mrs Hostrawser: Just a statement: If the minister or ministry or whatever is going to look at this situation, the closure in Arthur is October 7 and I am not sure just how fast the ministry or the government can work. If they were going to have another look at it, if they honestly really were going to have another look, can they in the interim put off walking in and walking away with the things in the office before October 7?

Mr Brown: I guess the encouraging thing is that we often have governments that have difficulty doing things. You know that. It takes a government a long time to do something. For a government to do nothing is maybe something that is fairly easy.

Mr Ferguson: I think we all recognize that governments at all levels, whether it be local, provincial, federal—whatever level—have generally been accused of being inefficient, not very cost-effective and have always been accused of quite simply wasting money. If we were fair about this we would sit back and say, yes, they are trying to rationalize where the offices are located and trying to get the biggest bang for their buck. When I hear people complain about either a provincial deficit or a federal deficit, let me tell you at this point that it never ceases to amaze me why we are in that situation, because no matter what you do, wherever you try to cut, there is an example of people who get upset because they are directly affected. It does not matter where you cut. You are going to directly affect somebody.

Just to the delegation, if we are going to be fair about this, you have tried to paint this as some sort of rural versus urban fight. That is not the case at all.

Mrs Hostrawser: In our area it is.

Mr Ferguson: We are closing an office in the city of Toronto; that is not rural Ontario. We are closing an office in Cambridge; that is not rural Ontario. We are closing an office in Bowmanville; that is not rural Ontario. We are closing an office in Ottawa; that is not rural Ontario. So it is not a rural versus urban fight here. What we have looked

at in very rational terms is where the offices are located and where we can reasonably expect to amalgamate services so that generally people will still be well served.

The delegations earlier today from eastern Ontario, and I am sure you heard their comments, feel that section of the province is going to come to a grinding halt if any offices are closed there. Let's get a grip on this. That obviously is not going to happen.

My question to Mr Janzen is, is it not true that lawyers often use lawyers in other communities to search titles of properties?

Mr Janzen: It can be done with other lawyers. It is done more with paralegals nowadays.

Mr Ferguson: Well, lawyers, agents, whatever.

Mr Janzen: That is correct.

Mr Ferguson: That is the norm, so would it not make sense, if I am a lawyer in the community, 30, 40, 60 or 100 miles north, whatever the case would be, and I am operating presumably a small business, for me to phone somebody in Guelph and say, "Look, here's the deal, this is the address, and you go down and search the title"? instead of getting into my car and spending three or four hours or three or four days to go down and search the title?

Mrs Fawcett: So now the consumer has two lawyers' bills to pay.

Mr Ferguson: No, I do not think that is the case at all. One individual is going to do the work. Either it is going to be the agent or it is going to be the solicitor you retain. If you go to a solicitor, generally it is not the solicitor who goes to search the title anyway. They have their own paralegal in the office who does that. Not very many lawyers today, let me tell you, go and search titles on their own, save and except for very small-town Ontario, so would it not make sense to pick up the phone?

Mr Janzen: Mr Ferguson, I think the point you made at the end, "except for very small-town Ontario," is exactly the point we are trying to make. By and large, we are representing very small-town Ontario, and we are saying we do our own work. We are not saying the province will fall apart if the registry offices are closed. It is a serious matter for us.

At one time in the village of Arthur we had an agricultural office. At one time we had a small claims court. Those things are gone now, and it has meant change, and we do not think it is a good change. In this case, we have also argued that the cost savings which have been submitted by the government and which we cannot find out the details about are illusory, and we presented a rationale to show that is not the case.

The Chair: I am going to give the reeve 60 seconds to wrap it up. Our time has expired.

Ms Hostrawser: I am not here to represent lawyers, and I am not representing land surveyors or anyone. I am representing the everyday Joe and the constituents of my area plus the surrounding area.

Mr Ferguson: The everyday Joe never sees the inside of a registry office.

Ms Hostrawser: If he does or does not, it is my responsibility as the reeve, and you well know, as an alderman, that I have to stand up for them when they do not know what is being done to them. That is why I am here today to say that small urban, rural areas should have the same kind of servicing as the one in Toronto that is moving 66 feet across the road. I think the people in Arthur and the surrounding area should have that same servicing, never mind lawyers, surveyors or whoever. That is what I am here for, to say that I cannot see a savings, if that is what your government is basing it on. I think I would appreciate it if people would go back and do their numbers again.

The Chair: We are two minutes over time. Thank you for your presentation.

GIL DEVERELL, DEREK GRAHAM

The Chair: The next group of presenters is Derek Graham and Gil Deverell. Gentlemen, you have 28 minutes.

Mr Deverell: My name is Gil Deverell. I am a lawyer from Mount Forest, which is on the northern boundary of Wellington county. It is also at the southerly boundary of Grey county. My concern is with the proposed closings of the Arthur and Durham registry offices.

Mount Forest is about 72 kilometres from Guelph in Wellington county, and 72 kilometres from Owen Sound in Grey county. If the minister's plans proceed, the registry offices serving Wellington and Grey counties will be 144 kilometres apart. The map marked schedule "A" to my written presentation to the committee illustrates this graphically. Guelph is at the south end of Wellington county and Owen Sound is at the north end of Grey. The Arthur registry office is ideally located to service north Wellington, and the same applies to Durham in south Grey.

I am going to give you a little bit more history, not too much. To truly understand the impact of the proposal, you need some sense of the history of our area. Arthur, Mount Forest, Harriston, Clifford and Palmerston in north Wellington, and Durham, Hanover, Ayton, Neustadt and Dundalk in south Grey are all small towns and villages in a large rural area. One often hears of children having to go to the city to find jobs. This large rural area has been fighting this and trying to provide jobs and growth at home for over 100 years.

The "city" in our case would be Kitchener-Waterloo, Toronto, Hamilton, possibly London, all of them quite distant. In any rural area, whether the inhabitants are trying to grow to ensure its viability or are trying to at least maintain the status quo, every small piece of the fabric is of great importance.

Among other attributes, which are arguably of greater merit, Mount Forest has been a lawyers' town for over 100 years. This means that the people who lived here and others in the townships, hamlets and villages the town serves could get a lawyer without travelling.

I recently came across a newspaper in an old file in our office dated January 31, 1907. It was labelled a special trade edition of the Mount Forest Representative. There are schedules, by the way, attached to the written material for every quote I will make here. This helps to put the real issue here in perspective. The paper proudly proclaimed

that the town was "an excellent site for manufacturers to locate," and in support of that proposition pointed out, among other things, that the town had five medical doctors, six lawyers and three dentists. Today, some 85 years later, we still have six lawyers who practise full-time in Mount Forest.

1650

The reason Mount Forest was a lawyers' town 100 years ago, 85 years ago, and still is today lies primarily in the fact that there is a registry office serving north Wellington at Arthur and a registry office serving south Grey at Durham. The 1907 editor of the *Trade Edition* warned against an attitude which, unfortunately, we are seeing today in the civil servants who have persuaded the minister to shut down the registry offices at Arthur and Durham. I quote as follows:

"One great mistake that has been made in the various towns, small cities and villages, and which the people in these various centres have during the past 10 years begun to rectify, is allowing prospective manufacturers to go elsewhere when a small loan would have brought them to their town. The history of a great many villages and towns in Ontario has been one of too strict economy. And when in many cases they have had factories, they have allowed more aggressive centres of population, with inducements in the way of loans, exemptions from taxations, to profit by their cheese-paring policy and carry off these factories."

The analogy, ladies and gentlemen, is clear: Minister Churley is quite prepared, on the basis of too strict economy—even false economy—to carry off our registry offices to Guelph and Owen Sound.

I want to speak about the viability of the rural area. The registry offices have played and continue to play an important part in the development of our large rural area. Yet in closing them, our government and the civil servants advocating the closings trivialize their role and function and, sad to say, trivialize our rural area and our small towns. This attitude is clear to me in every attempt I have seen to date by the ministry's staff and the minister to justify this decision.

There is clearly a lack of understanding of the real world outside of the Toronto government administration offices. Unfortunately, this decision appears to have originated with people who live and work away from the subject of their alleged money-saving idea. These are people who have jobs because of a system of government service to the property owners of Ontario, but they do not work out in the fields of the system. These people operate in the unreal world of the registry office system. All of the lawyers in north Wellington and south Grey counties, as well as all of the surveyors, title searchers, law clerks, municipal employees, real estate agents, land appraisers and others who use the ROs on an ongoing basis, operate in the real world of the registry office system. None of the people in the real world were asked whether it would be a good idea to shut down the ROs at Arthur and Durham.

I have been operating in those offices for 27 years. No one has ever consulted me on anything to do with the operation of the registry offices. The fact is that our law office alone employs seven people apart from the four lawyers in it. What the closures will do is send work away

to Guelph and Owen Sound from the whole rural area. That is what Mr Ferguson wants to do.

This will impact on all of the registry office-dependent employers and self-employed in north Wellington and south Grey, and there are many. It is revealing to note that the announcement of May 7, 1991 made in Toronto by Carol Kirsh, director of land registration, goes to great pains to point out that the closing of the registry offices will not affect the jobs of any of the civil servants. Kirsh stated: "The integration will be accomplished with minimal effect on ministry employees.... All classified employees will be offered positions at neighbouring offices or elsewhere in the ministry." People I have talked to ask what the ministry is going to do for those in our rural area who lose jobs or lose their freelance title search business because of these closures.

Revealing as well is Kirsh's statement at the beginning of her announcement to the effect that the closures will result in the consolidation of a number of land ROs with existing nearby offices. In the case of Arthur and Durham, this is a gross understatement, and tends to show the depth of investigation which was undertaken when the decision to close these offices was made in the unreal world. As indicated earlier, Guelph is 48 kilometres from Arthur, which means that a person from Arthur or any point north of that in Wellington county would have to travel an additional 96 kilometres round-trip to close a real estate or mortgage transaction or search a title. The same applies for Durham: an additional 96 kilometres for anyone in Durham or in the south portion of Grey county.

This approach is further illustrated in the May 7, 1991 news release, "Consolidation of Land Registry Offices Brings Improved Customer Service." Part of the news contained here is, "One in Toronto and one in Ottawa will be merged with existing operations in the same buildings." Those are the city ones. "The 12 other offices are integrated into neighbouring offices." I stress that word "neighbouring." A daily drive from Durham to Owen Sound or from Arthur to Guelph is not a neighbourhood jaunt.

Whatever civil servants authorized this news release did so without knowing the true facts or ignored the true facts. There are three names appearing at the bottom of the news release and one of these names is the director of land registration.

I expect that some of the others appearing before you will use part of their time to show you that all of the announcements and letters that came out of the ministry on or about May 7 are nothing more than honey-coated public relations statements made without any apparent understanding of the adverse results in some cases, and an embarrassingly superficial investigation of the effect upon the users of this public service at our doomed outlets.

Some comments, which I believe are very relevant to the issue here, from people who know about the real world follow. A few of these were made in 1978 when someone else in a Toronto office suggested to the minister of the time, Larry Grossman, that he should close down some of the little country registry offices to save money.

1. John H. Giese, Bruce-Grey, federal NDP candidate. Letter dated June 14, 1978 to Mr Jack Johnson, MPP:

"While I am from a different party, I like to do the same and ask you to use your influence to reverse the government's stand on the registry office. The erosion of services from our small towns is a bad thing. One should not submit to the alligator syndrome, feeding everybody else to the alligators in the hope of being eaten last. The removal of services from our small towns has the same effect. It should not be permitted because it will eventually destroy our towns."

2. Michael N. Davison, MPP, New Democrat, Hamilton Centre; NDP critic, Consumer and Commercial Relations. Letter dated May 11, 1978 to Larry Grossman:

"The point has been well made by the press and concerned Durham citizens that the south Grey registry office is useful and provides efficient, convenient service to those who do business there. It is my hope that you will consider making every effort to keep the south Grey office open."

3. Norma Peterson, president, Wellington NDP Riding Association. Letter dated June 27, 1991 to myself:

"Attached you will find a copy of a letter I have written to the Honourable Marilyn Churley. I think the letter adds a local perspective to the issue that the minister may not have been properly apprised of prior to her May 7 announcement."

4. Norma Peterson again. Letter dated June 27, 1991 to the Honourable Marilyn Churley re closure of land registry offices in Arthur and Durham:

"At the last convention of the Ontario New Democratic Party in March of this year, a resolution sponsored by the Wellington NDP was passed by the delegates. This resolution concerned 'viable rural communities' and ends with the commitment that 'economic decisions take into consideration the impact on the rural community.'

"The towns of Arthur and Durham are small communities surrounded by townships which still have an agricultural base. As you know, the agricultural sector has been under intense market pressure for many years and family farms have been going under at an alarming rate. The current recession has resulted in a record number of bankruptcies and declining business assessments.

"Your announcement of May 7, 1991 to close some 14 local registry offices may not severely affect the larger communities, but the impact will be much more dramatic in smaller rural communities like Arthur and Durham.

"Your announcement made reference to improved customer service, better working conditions for employees and alleged economic savings to be realized from the closure of the offices. However, this decision was arrived at without prior consultation with either customers or employees.

"We're proud that our party has refused to jump on the bandwagon of dramatic service cuts in the midst of a deep recession. Our pride in this general approach has been tarnished, however, by a decision which will see the closure of the only provincial government offices existing in the towns of Arthur and Durham."

In point 5 there are quotes from Terrence K. Moore, staff representative, Guelph regional office, Ontario Public Service Employees Union, and in point 6, some quotes from the OPSEU news release. I am not going to quote those because Mr Moore is actually here, I think, and is

going to address you today. I do urge upon you, though, that you should read them because they make eminent sense.

I have included all of these quotations because they make the points better than I can. In particular, I draw to your attention the reference of Mr Moore to the wider role of the registry offices in providing a government presence in the rural area. This, of course, they do. He refers to information about government programs being available to the local public.

1700

In this vein, it is with considerable irony that I noticed in the May 1991 issue of the Ontario Reports, published almost at the same time as Minister Churley's closure announcement, an ad to the public from Ms Churley's own ministry stating that a copy of the new forms required for registration of small business and partnership names, which became effective May 1, 1991, together with instructions and even a brochure "may be obtained from the land registry offices"—this is to be emphasized—"located throughout the province." This ad was placed by the companies branch in Ms Churley's own ministry. They certainly seem to understand what purposes these registry offices exist to serve.

Why are we losing our registry offices? The short answer to this question is because some senior civil servants in Toronto, securely away from the scene, felt this would be a good way to save money. As a user of two of the doomed registry offices, I could just as easily have suggested saving money by cutting the administration people by half in the Toronto area government offices, or asked the minister to show us how serious she is about saving money by holding back on the salary increases to the senior civil servants, or even requested the symbolic gesture of cutting out such frills in the civil service as the registration division's internal newsletter, Registration News. Any of those approaches would be just as off the cuff as the May 7 announcements which will destroy two registry offices out in the country which have been operating for over 100 years.

The real reason we are losing our registry offices, however, is because people in the positions of power have lost sight of what the registry offices were created for in the first place. They are there as a public repository of information and legal documentation dealing with a concept which is fundamental to our whole system of government and way of life in this democratic country, that is, an individual's right to purchase and own real property. They are there as a government service to the public, and I want to emphasize the word "service."

The people who have made this decision have made the error of viewing the registry office system as a business. This is best illustrated by a letter to me from Minister Churley dated July 5, 1991. I allege that the Ontario government, when all of the ministries involved with the rental and operation of the registry offices are looked at together, receives surplus revenue from the land registration system. To be sure, the registry offices are not public funds depletion sources like hospitals and schools are. The people who want to treat this system as a business, however, want the business to produce more money and be more

productive or efficient in the business sense. The minister states in her letter:

"At the regular meetings we hold with clients, they frequently voice the need for more equipment and staff in all the registry offices.

"Our figures show that the average cost per transaction—you hear that a lot, "per transaction"; I do not know what it means—"in Arthur is well above that in Guelph, and the cost in Durham is above that in Owen Sound.

"By integrating the Arthur and Guelph land registry offices and the Durham and Owen Sound offices, this average cost per transaction will be significantly reduced. The resulting improvement in the overall level of cost-effectiveness in the branch will support our efforts to staff and equip all 51 land registry offices across the province equitably and effectively."

I ask the committee to examine the logic of this. This is clearly saying that small is bad. It is saying that if the ministry cuts off the service to our rural area despite whatever inconvenience that causes the people who live and work in that area, there will be more money to spend on the service being given to the majority who reside and work in the large urban areas. In our case, of course, the urban areas are Owen Sound and Guelph. To some of you people, those are probably rural places too, but to us those are cities and those are the urban areas that are going to benefit at our expense.

This approach could be used for any government service, of course. Mount Forest has a hospital. I happen to be on its board of directors. There is also a hospital in Palmerston in north Wellington county. The Ontario government could also say to the people of the north Wellington rural area: "These hospitals aren't efficient. They cost too much per transaction. We are going to close them and you can travel to Guelph or Fergus for your health service." This will, of course, benefit the majority, because the majority live in and around Guelph and we will have more money for equipment there. The Guelph hospitals are always asking for more equipment and staff. All hospitals are.

I want to talk for a minute about Polaris. In April 1991, just before the minister's May 7 announcement, the registration division published a special edition of Registration News. The headline reads, "Minister Signs Landmark Deal With Real/Data Ontario Inc to Form the Polaris Strategic Alliance." Some of the news is as follows:

"At long last that day has arrived: Strategic Alliance will become a reality by May of this year!

"On Friday, February 15, 1991 former minister Peter Kormos announced the formation of the Polaris Strategic Alliance between the Ontario government and Real/Data Ontario.

"Real/Data Ontario is a consortium of Ontario firms specializing in surveying and mapping, computer systems and management consulting," etc.

"In his remarks at the news conference Dr Phillip Lapp, chairman of RDO, said, 'The purpose of this Strategic Alliance is to allow the partners to pool complementary resources and co-ordinate efforts to achieve results that neither could achieve alone.... RDO brings to the partner-

ship proven international marketing skills, technology expertise and business acumen.'"

Ron Logan in the ministry is quoted as saying, "The Strategic Alliance is a unique partnership, merging together private and public sector in a business arrangement"—emphasis on business as opposed to service. "It will be an Ontario corporation which is jointly owned between the Ontario government and Real/Data. The partnership will soon have a name and identity of its own which reflects the nature of the business arrangement.

"This is a unique partnership between government and the private sector." Now listen to this. This is Ron Logan again, "It represents a model for future delivery of government services at a reasonable cost." Does this perhaps explain the business mindset of the senior civil servants who have advised the minister to close our registry offices?

In closing, I want to refer again to the minister's July 5 letter. I stress the need for someone to approach this problem with logic and common sense. The minister further explains the need to close our registry offices by saying that "the majority of users of the land registration system in Wellington and Grey counties, respectively, are located in or near the community where the integrated office is located."

What fairminded person would give any weight to this? Of course the majority of the registry office users in Wellington county are in or near Guelph. That was even more so over 100 years ago, when the county council placed the registry office at Arthur to serve the people in Wellington north. It was deemed to be a need that existed then and still does.

The minister goes on to say, "many of the users of the offices being closed already also go to the community where the sheriff and integrated office is located to complete real estate transactions." Although I keep seeing that repeated, the fact is that the vast majority of the users of the Arthur RO do not go to Guelph to obtain the sheriff's certificate required to close a transaction at Arthur. This is simply done by telephone. I have been using the Arthur RO since I was a law student in 1964. We have never had to go to Guelph in order to complete a deal at the Arthur registry office. The same is true at Durham and Owen Sound.

This type of rationalization, still being used two months after the closing announcement, is insulting to the people in Wellington north and Grey south. It does, however, tend to undermine the soundness of the minister's decision.

My proposal is this: If the Ontario government is serious about cutting services, then develop an across-the-board plan and strategy so that everyone in government will be doing the same thing and there will be a meaningful impact on the budget. Equally important, so that all of the people will know what to expect and what the government's intentions are, if business efficiency is to become the goal, and taking from the few so that the majority have more is to become government policy, then at the appropriate time the people can decide as a whole if this is the way they want things to be.

1710

Mr Graham: I am a fifth-generation Ontario land surveyor and president of Derek G. Graham Limited and have practised technically and professionally for over 33 years in the field of cadastral or legal boundary surveying and planning in Ontario.

Since 1979 I have maintained an active private legal boundary surveying and planning practice in Elora, which is within the centre of the geographic area of the regional municipality of Waterloo and the counties of Wellington, Dufferin, Grey and Bruce. My firm services public and private clients in this area and works for specific clients from Ottawa through to Sarnia. Our clients include all four levels of government in Ontario.

Prior to opening my own practice, I worked in both private and public land surveying and planning organizations, including the Department of Highways, the Department of Energy, Mines and Resources and the Ministry of Natural Resources, where I was inspector of surveys for mining lands for the province of Ontario.

Three land registry offices in the minister's proposed list of closings, Cambridge, Arthur and Durham, are the ones I am concerned about. You have heard and you will hear other expressions of concern from various parties regarding the proposed unwarranted closing of 14 land registry offices. I am greatly concerned about the closing of the Arthur and Durham registry offices as they serve the majority of my clients with whom I deal as the lands involved surround these very offices.

These two offices, for those of you who have never been in a land registry office, have served for over 100 years as recording libraries for all the registrable events which deal with all patented lands in north Wellington and south Grey. As an Ontario land surveyor I must research lands I am surveying in order to render an opinion as to the extent of title to the best of my ability following the guidelines of survey practice as laid down by the Association of Ontario Land Surveyors.

Also, I must go back to the original creation of the parcel in order to be assured that I am giving the best opinion possible. In some cases this can mean researching documents of over 150 years of age. Following an initial research of my firm's own records, the land registry office is the first place I visit to research every piece of land for which I have been instructed to render an opinion as to the extent of title.

Given the importance of research in my rendering of an opinion, it is incredible to me the complete lack of research and consultation that has taken place in arriving at the decision to advise the minister to propose to close 14 land registry offices. I have been informed by the registrar of the AOLS that the Canadian Bar Association—Ontario and the Association of Ontario Land Surveyors were not consulted at all prior to the announcement of these closings.

I am amazed that two of the major users of the land registry office system, lawyers and surveyors, were not consulted prior to the minister being advised to announce the said closures and that the demography used for the minister's staff statistical analysis was based solely on the geographic position of lawyers' offices. I resent being left

out as a member of a group and more particularly as a member of a family that has provided for five generations political, professional and business expertise to this province since 1820.

At a meeting called on May 22, the minister's staff advisers Kirsh and Daniels advised the approximately 150 people in attendance at the county of Wellington council chambers that they were unaware of which ridings were to suffer the proposed injustice. When I was a management-level civil servant, you certainly knew how the minister's decision might impact on the various ridings. It was at this meeting that a clear indication was given that no notice had been given to the county of Wellington, and that was referred to by Warden Bert Moore.

I wish to point out to you, as no doubt others have and will, that there will be unnecessary extra costs involved which will be passed directly on to our clients by the extra travel time and inconvenience these closings will cause. Surveyors work to deadlines, as do others, but we have one further complexity: the weather. So a nearby library is of critical importance. By forcing the surveyors who practise out of the Arthur and Durham offices to go further afield for their base information, the minister's staff recommends an uncompromising injustice. There will be no more free parking or easy access available to those clients if the records are to be moved from the Arthur and Durham land registry offices. The extra hours of driving to and from the Owen Sound land registry office for my practice falls well short of intelligent, rational planning.

It has been postulated by the minister's staff that because of the new program, Polaris, electronic microfilm retrieval is the thing of the future. At a recently arranged visit to both the Arthur and Durham land registry offices the minister's parliamentary assistant, Derek Fletcher, and his legislative assistant, Virginia Wilson, became acquainted with the quality and capability of that microfilm retrieval system. A random sample of microfilm sketches attached to a document was virtually illegible, a common occurrence.

I wish to state how appreciative I was of Mr Fletcher and Ms Wilson taking time out of their busy schedules to visit these land registry offices with me. They both displayed great diligence in trying to learn about the system when they met with three lawyers who were in these land registry offices at the time, together with one freelance title searcher. This was the first time the honourable member for Guelph had ever been in a land registry office, and there were a great number of matters to absorb during the five hours or so it took to visit these two offices. A previous recommendation from the minister's staff has been the concept of microfilming and destroying all documents registered prior to 1948 in the land registry system. Due to poor reproducibility these documents on microfilm are now lost for ever. As we cannot retrieve the original documents, on many occasions all we can do is guess at the dimensions shown on the original plan.

I am certain all of you would like to hire a surveyor to guess where your property limits are. The staff of the ministry—

The Vice-Chair: Mr Graham, could you summarize your comments.

Mr Graham: I can appreciate that, Mr Chairman, and I will skip and go to my recommendations. But there is one thing on the bottom of page 4, the last three paragraphs. All the rest are very important, and I am emphasizing that there are three ministries involved and they are all going off on tangents. They are not co-operating. The ministry staff over a period of years have orchestrated a program called Polaris. Rather than being a star in the sky, present users indicate a feeling more of a very expensive pie in the sky. Under Polaris, the staff of MCCR have created a parallel system of mapping on their own, with their own number that already exists. Complimentary remarks have never been made on the pilot project by users of the system.

I would hope the members of the committee use the clear-cut example expressed earlier about Almonte as an example of the management level that we are working at: open it this year, close it next year, same staff over three governments. I would recommend in the short term that all mapping and database functions, including Polaris, be moved together with the mapping functions of the Ministry of Revenue and the Ministry of Natural Resources under the aegis of the surveyor general's office. I would also recommend the downsizing of the real property registration branch.

This concept of getting along between ministries has been frustrated in the past by incompatibility of personnel and personalities in trying to achieve a smoother, non-duplicating organization which would greatly and immeasurably benefit the taxpayers of Ontario. It is frighteningly absurd to have to wait up to nine months to have one's plans examined for affordable housing subdivisions. I certainly appreciate the consideration of another pair of eyes, but when one has to go to the minister's parliamentary assistant to get action, clearly the system is not working. In my second last paragraph on page 6, I again point to my willingness to serve this province as did my great-great-grandfather in this very House.

My copy of my letter of June 15th—no answer. I believe the minister's staff has the responsibility to develop plans and concepts for the efficient and orderly management of the land registry system, that the minister should have all the facts on which to make a balanced decision. After all, the minister is in charge, is she not? I would also like to thank the good work of Ms Deller. I am open to questions as is my younger friend.

The Vice-Chair: Thank you very much. I am afraid, however, that the time has expired and we must move on to the next presenter. Thank you very much, gentlemen.

ONTARIO PUBLIC SERVICE EMPLOYEES UNION

The Vice-Chair: Mr Moore, welcome to the committee.

Mr Moore: Do members of the committee have the copy of the brief?

The Vice-Chair: Yes. Would you introduce yourself for Hansard. I understand you have been allocated 15 minutes by the committee.

Mr Moore: Mr Chairperson, members of the committee, my name is Terry Moore and I am staff representative employed by the Ontario Public Service Employees Union, OPSEU. I am assigned to the OPSEU Guelph regional office and have the responsibility out of that office for a geographical area extending from Cambridge in the south to Tobermory in the north, from Brampton on the east to Kitchener-Waterloo on the west. Within my service area, 3 of the 14 land registry offices designated for closure in the minister's May 7 announcement are presently situated in the communities of Cambridge, Durham and Arthur. The nine bargaining unit employees working in these offices are organized into OPSEU locals 246, 225, 255 respectively.

1720

In addition to being an OPSEU staff representative I hold the position of executive member at large on the Wellington County New Democratic Party Riding Association. Wellington county is a largely rural riding with most of the people outside the city of Guelph living in small towns and villages. Before joining the staff of OPSEU in 1983, I worked at the NDP caucus at the Legislative Assembly as a research associate as well as an officer in what is now OPSEU Local 593 which represents caucus employees. I held the position of research associate for five years during which I served both Michael Cassidy and Bob Rae in their capacity as opposition leaders. I mention my personal background in order to clearly indicate to members of the committee that my political affiliation has been and continues to be with the New Democratic Party.

I am here today to express opposition, my own personal opposition and the opposition of my members to the closures of the land registry offices in Arthur, Durham and Cambridge. I am personally opposed to these closures as is the Wellington County New Democratic Party Riding Association. OPSEU as an organization has not taken an official position as an overall entity across the province with regard to the minister's May 7 announcement principally because the employer has committed itself to preserving the jobs of bargaining unit members affected.

One of the principal jobs of a union, of course, is to protect member job security, and the employer is to be commended for offering a job to all affected employees in the offices that will assume responsibility for those that are closing. Job security, as important as it is, is only one of the issues, however, that a union must pay attention to in representing the interests of its members. Impacts on working conditions, the delivery of public services and the impact on the larger community are all matters which OPSEU members want their union to pay attention to. Notwithstanding the fact that job security has been largely dealt with in the case of the land registry office closures, OPSEU is reviewing its position on the employer reorganizations that do not result in job loss to current members. This review has been prompted by membership concern and reaction to the closures in the land registry office situation.

OPSEU has a long-established track record of advocacy on behalf of public services delivered to the people of this province by OPSEU members. OPSEU members, being citizens in the communities in which they work, have an

interest in public services as consumers as well as producers. In addition, public services, because of the economic activity which they help to generate or support, have a significant impact on the overall wellbeing of the communities they operate in. The opposition I am here to express is based on three concerns: (a) the criteria upon which the closure decision was apparently made; (b) the impact on individuals and their communities; (c) the way in which the decision was made.

Dealing with the first two issues first, the justification given is mainly the financial savings involved, an estimated \$1 million per year in operating costs and \$8 million in replacement and renovation costs. No breakdown of these numbers were produced or have been provided to any of the stakeholders in the present land registry system despite explicit promises made by Ms Carol Kirsh, director of the land registry branch, at a meeting in Guelph on May 22, 1991. In the absence of a detailed breakdown of how these numbers were arrived at, it is impossible to directly respond to them.

However, some comments can be made on the general issue of costs. The NDP has long been a severe critic of the private sector's propensity to pass the costs of corporate decisions on to individuals and communities. This has been the basis of the party's repeated calls for plant closure justification laws designed to make the private sector accountable for the social impact of its ostensibly private decisions. That comment was made by Mr Brown earlier this afternoon, interestingly enough. The land registry closures may result—and I emphasize “may” because I think the briefs you have heard so far indicate that there is a serious question as to whether or not there are any savings to be had, at least in certain offices.

There may be overall and across the system some savings, but certainly that is highly questionable with regard to certain particular offices. Arthur and Durham, as you heard just immediately preceding my presentation, either make money or break even. So across the system there may be some savings but it is undeniable that there will be increased costs and decreased revenues for others in the community.

Employees will incur travel time and commuting costs. Think about it. If you have to travel an extra 80 kilometres to and from work a day, given what the CAA says is the average cost of running an automobile these days, which is 25.6 cents a kilometre, that is going to cost you close to \$5,000 extra a year if in fact you have to travel an extra 80 kilometres to and from work. So the impact is going to be significant on those employees in terms of increased costs, but also the travel time involved.

Client groups, as you have heard and you will hear again tomorrow and the rest of today, will incur increased travel time and associated transportation costs, which of course will be passed on to the users of the system.

Small businesses in Arthur and Durham in particular will lose what I am referring to as “secondary sales” currently made to individuals who purchase meals and other goods and services as a result of being in town to do land registry business. This may sound on the surface to be a small item, but I think in a small community the size of

Arthur and Durham, it is not a small item to have this kind of secondary sale as the result of people being in town to do land registry business.

Did the ministry take any of these costs into consideration? Not likely, but it should have, and it is indefensible for an NDP government to make decisions without doing so. It is not good enough, in my opinion, to carry on the same standards as previous Tory and Liberal methods of doing business.

We support the requirement that the private sector be accountable to the community for its closure decisions and therefore must demand at least the same level of accountability on the part of the public sector for its closure decisions. I can remember when I was a research associate writing the plant closure legislation, which we used to table regularly in the House as private members' bills at the time, and thinking at the same time about the government's own responsibility to justify to the community as well as the private sector the economic and social impacts of its decisions to withdraw services.

Bureaucrats in the Ministry of Consumer and Commercial Relations have managed to convince the minister that one land registry office per municipal jurisdiction makes sense. All jurisdictions, large and small, urban and rural, are to be subjected to the same rule without regard to local conditions.

In the case of Arthur and Durham, the land registry offices represent the only remaining provincial government operations in these communities. Removal of these offices will have a greater impact given the size of the communities and will contribute to a process by which government services are centralized in regional service centres.

I can remember, also back to my time as a research associate, thinking about the planning exercise that went on during the 1970s where—was it Planning for Tomorrow? I forget what the exercise was called, but this idea of regional service centres was the centrepiece of the Conservative government's planning process where all services were going to be like this one-stop shopping idea in regional service centres. We criticized it at the time because what that was going to do was withdraw services from the local level and make the government more remote from the individuals, and I make the same comment today. This move that the government has made will make government itself more remote from smaller communities and put more pressures on the towns which are already hard pressed to resist the urbanizing pull of the larger urban centres that is already there.

Concerning the way the decision was made, on May the ministry faxed letters to community and employee representatives announcing the closures. The decision was done deal; no prior consultation or notice was provided. In my experience, nothing infuriates union members and citizens more than being faced with undemocratic decisions. People may not like a specific result, but if they have been fully involved and were allowed to participate and to debate the merits of a particular proposal they can often live with the results, even if they will not like it. Without participation, people are justifiably outraged and become

more cynical about the role of government and their political leadership.

The Liberals were defeated, conventional wisdom has it, because of widespread anger about the party's arrogance while in power. The NDP promised a much higher standard, with Premier-elect Rae making a commitment to "earning the public's trust each and every day." The land registry decision, both on its merits and in the manner it was arrived at, contributes nothing to establishing the higher standard that people expect and demand from an NDP government.

I want in conclusion to talk about a couple of things, including the standard on which I think this decision should be reviewed, or would encourage you to review it on. I cite as a source Bob Rae himself. He wrote a truly remarkable speech. I do not know if anybody on the committee has read it, but I recommend it to you if you want to understand at least the thinking of the Premier. I appreciated that speech. It is called *What We Owe Each Other*, and it is a very personal kind of speech. It is his own personal political manifesto of how he makes sense of the world. In it he says, on page 29, "Equally important, we must open up government and the ways it delivers services to these tests of democracy"—being a lawyer, it is tests, right?—"participation, decentralization and accountability." So he sets up the three tests.

In fairness, the NDP has only been running the government of Ontario for 10 months and it takes a while for a new leadership to make it clear to the bureaucracy that it is not business as usual. However, we are entitled to hold the government accountable to the standards it has set for itself.

1730

In light of Premier Rae's tests of democracy, I encourage committee members, particularly those in the New Democratic Party, to ask themselves the following questions when it comes time to write their report: Does the land registry closure decision represent a model of citizen participation in government decision-making? Does the land registry closure decision result in decentralization of government services to the community level? Does the land registry closure decision represent a standard of government accountability which you can find defensible?

If you find yourself answering no to these questions, as I have and my members have, then clearly something has to be done to put things back on track. The absolute minimum requirement, it seems to me, for this government to undo the damage that has been done already, to its credibility in particular but also to the lives of the people in those communities, is for it to do the following things.

First, impose an immediate moratorium on the closures. You have to go back to the status quo if you are going to get the credibility of people on your side again. You cannot continue to put forward an indefensible line to the community. They are not going to swallow it and the briefs you are going to hear today and tomorrow are going to be absolutely clear proof of that. They are not going to buy the line, because it is indefensible, so I think you had better go back to square one.

Second, do a full public cost-benefit analysis that directly involves all stakeholders and covers all the costs, not

just narrow financial considerations, and incorporate in that cost-benefit analysis Bob Rae's test of democracy. Live by the standards that the leader has communicated to the party, and then reassess the decision following consultation based on the results of that full cost-benefit analysis.

Finally, I want to indicate to you that I am not particularly happy making public criticism of a government forum by the political party that I have been a member of my entire adult life. I am not entirely comfortable, for example, sharing the same position on this issue as the Conservative Party. This is not because I do not think Conservatives are ever right about anything. They often are. Rather, it is because the Conservative Party of Ontario has followed the line of its federal counterpart in attacking the New Democratic Party for not having made real and deep cuts to public services in the April budget. I have been following that very closely. And now, in one area where the NDP has cut the budget, so to speak, the Tories are on the attack. There is an inconsistency here at the very least, and some would say more than a little political opportunism.

But my personal discomfort aside—and that is not really the important thing here—what is important is the issue and the underlying political principles that surround this particular issue. A mistake has been made, I think a fairly serious mistake; at least from my neck of the woods it is a very serious mistake. The party's credibility is clearly on the line in those communities. We should admit to the mistake and get on with the job of rebuilding our credibility and doing it right the second time.

That concludes my remarks. I would be happy to answer any questions the members of the committee have.

The Chair: We have three minutes left, one minute per party.

Mr Arnott: Mr Moore, I would like to thank you very much for coming down to Toronto today. You have exhibited a great deal of integrity and courage to come here and talk about your concerns with respect to this decision. I would just like to say that I am very pleased that the Wellington NDP has endorsed the position that we have taken for some time.

We have done everything we can to try to convince the minister to overturn her decision, everything that we can think of. Now, I could not afford the \$750 to take that seminar the NDP held, *How Do You Deal With The Government?* Do you have any suggestions as to what further we might do to convince the minister that her decision is wrong?

Mr Moore: Other than what we are doing in terms of arguing partly on the merits and partly on the process, I do not know what else we can possibly do. Obviously it is a political decision and obviously it is attached to the budget and therefore a matter of serious concern to the government. I think we have to do more of the same thing. We have to argue on the merits. We have to talk about the impacts on the ground and we have to try to get through to the membership.

Mrs Fawcett: I really appreciate what you have said today because I think everybody in this room—I am not so sure about over there—agrees that a mistake has been

made and that we really should go back to square one and take a good look at it because in most areas and certainly in my area of Northumberland it does not make sense.

Mr Ferguson: I want to thank Mr Moore for appearing today and I also want to indicate to other members of the committee that I think it is a healthy process we are in. We are not simply trotting out our people to sing the government line. We do have some free thinkers on the side of this government—

Mr Villeneuve: Funny they are not elected.

Mr Ferguson: —who are encouraged occasionally to come about and express their individual opinion. We do not promote, “I never had to think at all; I voted my party’s beck and call” to everybody who happens to have a membership in this party. I think that is important and I think Mr Moore very aptly demonstrates that.

GLENCOE AND DISTRICT HISTORICAL SOCIETY

The Chair: The last presenters of the day are the Glencoe and District Historical Society. I would ask all the presenters to please come forward and take a chair and to identify themselves for the record. You might want to mention any positions you hold within the organization that you are representing. You have been allocated 15 minutes. You can use it all in your presentation or withhold some time for questions and answers.

Miss Kendrick: My name is Karen Kendrick and I hold the position of second vice-president of the Glencoe and District Historical Society. I am also a director of the historical society and the supervisor of the Glencoe library, and as such am a liaison with the historical society. I will ask the two gentlemen with me to explain who they are.

Mr Hamilton: I am George Hamilton, the founding president of the historical society in 1978.

Mr Diamond: My name is Jim Diamond. I am the treasurer and the membership director of the historical society.

Miss Kendrick: The Glencoe and District Historical Society has nearly 100 members drawn mostly from the Glencoe area in Middlesex county but including members from the neighbouring counties of Lambton and Kent and as far away as Toronto, Michigan and Alberta. Those of our members who live a considerable distance from Glencoe belong in order to access our resources for genealogical research, as do our local members.

Several times each week, the Glencoe Public Library building, where the historical society’s resource room is located, has visitors from other parts of Ontario and the US doing family histories. Glencoe is a comparatively old settlement dating back to the 1830s. Middlesex county has one of the few 1878 county atlases which were compiled with the names of land owners inscribed on their properties shown in the township maps. Many visitors arrive at the society’s resource room having just come from the west Middlesex land registry office or, having completed their research in our resource room, go to the registry office to obtain a photocopy of wills, deeds and other registered documents. The library and registry office are conveniently located within a block of each other.

People are often surprised with the data available at the registry office, thinking that its information is limited to the names of land owners. Wills and mortgages registered in such offices can provide the researcher with family names and other pertinent information not otherwise available. One of our members is doing an inventory of early businesses from registry office records. Others are working on various aspects of local history in which the registry office records are of assistance. This includes members who have published books of local history and those currently preparing books for publication.

The wealth of information which registry office records contain is valuable only if it is accessible. If they are moved to London, where even finding a parking space is a struggle and where long, slow-moving lineups are the norm, non-professionals like us will be lost in the shuffle. Volunteer research for west Middlesex will dry up as far as the registry office is concerned.

Glencoe also has a local architectural conservation advisory committee, LACAC for short. Members have letters of permission to examine registry office records free of charge, as authenticating the age of a building is basic to determining its historic merit. Volunteers can use records under this agreement provided that the same record is not needed by professionals, who must understandably have priority. In other words, moving the records to London would force volunteers to drive an 80-mile or approximately 130-kilometre round trip, wait in line for assistance and then at any moment, as per the agreement, relinquish the records and move to the end of the line. In a location to which the history researcher can easily return several times if necessary, where parking is not a factor and traffic not a deterrent, volunteers can and do gladly function. A move to London presents a researcher with such obstacles as increased traffic, minimal parking and time lost in transit. Therefore the obstacles in London would simply be too overwhelming.

Glencoe’s registry office, originally built in 1871, was modernized in 1985 and doubled in size to over 600 square feet at a cost of over \$250,000. We have brought some photographs for you to examine afterwards. It is air-conditioned, has ample work space for staff and public alike, a fax machine, public phones and washrooms, a large paved parking lot, and is wheelchair-accessible.

The reasons for closing the west Middlesex registry office have been given as: to help cut \$1 million from the branch’s budget, to improve the delivery of the land registry system and to improve cost-efficiency.

1740

“Integration,” the minister claims, “will improve customer access to the land registry system.” Not so in west Middlesex, where transfer of records to the already congested London office can only impede and frustrate customers even more. “Clients will also benefit from being able to research and close all transactions within a county or regional municipality at one location.” How can this be when people are forced to travel many miles farther before waiting in a line even longer than it is now?

The extra staff and transportation costs will be passed on by professionals to their clients, the general public

Transactions can be completed in one location now in west Middlesex in a fraction of the time required at the London office. How much worse will it be if all west Middlesex records are transferred?

The minister says it will "be easier for clients when land registry offices are located in the same community as the sheriff." In the west Middlesex office there is a fax machine and computer link with the sheriff's office, which, by the way, is in London. For the past year, this has enabled staff to issue sheriffs' certificates and complete transactions in a single location.

The minister says, "One million dollars will be saved in operating costs per year and \$8 million over the next few years in capital improvements." The west Middlesex full-time staff will be transferred to the London office. No saving will be gained from salary reduction there.

It should be obvious that the projected \$8-million capital expense set forth as an excuse for closing all offices does not apply to west Middlesex, where the improvements have already been made. Perhaps other offices targeted for closure need improvements, but the saving produced by integration will be eliminated by the cost of expanding the county and regional offices. That the latter expansions will be required in a few years' time is virtually certain.

As more than \$250,000 was spent only six years ago to make the west Middlesex office into a top-grade facility, the capital improvement savings rationale does not apply. Integration would leave the province with a building ill-used for any other purpose.

The Middlesex Bar Association suggested the \$1-million extra yearly revenue could much more easily be generated by increasing the land transfer tax from 25 cents to \$1 per transaction, leaving offices accessible to the public, which has a right to examine the records. No doubt each of the communities on the hit list would suffer the same withdrawal of public access which this so-called integration would produce.

Decentralization of government offices, both federal and provincial, has been part of the plan in Canada for years now. How can the consolidation of the modern, fully equipped west Middlesex registry office with the London office be justified in terms of decentralization? Furthermore, there was no consultation with the vast majority of the users of the system before the decision was announced by the director of land registrations, Carol Kirsh.

Early records are being microfilmed, Ms Kirsh has informed us. When historical society members asked her where they could see these copies, Ms Kirsh replied, "Oh, several centres, for instance, Belleville." This is a 12-hour round trip drive from Glencoe. She made it clear that rural communities are unimportant to her, saying, "I have a provincial view," and that is a direct quote. Perhaps she meant province-wide.

Ms Kirsh discounts a petition of over 1,000 names protesting the closure of the west Middlesex registry office, drawn from about 2,000 voters in the adjacent municipalities, and she discounts the 65,000 people in the Middlesex riding. If her ancestors had taken this attitude in early history, there never would have been a rural Ontario.

The frustration our society envisions in this ill-conceived plan is compounded by the special realization historical societies have of the importance of local history and of the need for knowledge and pride in our past. Surely these goals still deserve to be encouraged.

From the comments of Ms Kirsh and the ministry, we fear that insufficient investigation of the condition of and services available at the west Middlesex registry office was done. Perhaps this is true in the case of other small offices as well.

The impact upon non-professional users, which will be immeasurable, and the ripple effect in the local economy are major concerns, as this is a busy office which attracts people from a wide area. Already forecasts of the added congestion and lack of space in London are expected to squeeze out all but the professional users of the system. Will someone please listen?

Attached also to what I have just read you will find the two-page letter which our LACAC representatives got, and I believe this is true across the province, which is signed by Ms Kirsh, giving them permission to go into the registry offices. You also find attached the letter from Ms Kirsh telling us of the proposed consolidation of the Glencoe and London offices.

We would be very happy to answer any questions the committee might have.

Mr B. Murdoch: One question I would like to ask again. We have heard from the other side that there was a lot of prior consultation and meetings with different users. Your group, though, was never consulted about the closure. I just want to make quite sure.

Mr Diamond: Absolutely not.

Mr B. Murdoch: We are having a hard time finding out who these users were who were consulted. I just wanted to make sure that was—

Mr Diamond: Absolutely not, sir. When we heard was when this second letter attached to your handout was delivered to us.

Mr B. Murdoch: As you are with LACAC, though, would you say there would be some tourist attraction to some of these buildings all over Ontario, the ones that are being closed?

Miss Kendrick: Most definitely, because many of the buildings, as is ours, would be of sufficient age that they are historic themselves.

Mr B. Murdoch: That is another thing that was mentioned to us, that this would not happen, but you would think there would be?

Miss Kendrick: I would think so.

Mr Brown: I am also interested in particular about the consultation. Has there been any after-the-fact consultation? Has the ministry come out to the community and said to the community, "We want to close this registry office and this is why," and laid out those reasons in a community forum so that the people of the community may have some opportunity to understand the whys and wherefores of this?

Miss Kendrick: There was a meeting with Ms Kirsh and two other representatives that was scheduled to start at

5 o'clock. It did not start until 5:30, quarter to 6. It was scheduled to end at 7 o'clock. It actually ended at a quarter to 7, when one of the people present felt they had listened to sufficient doubletalk, as it were, not really being given reasons why it was being closed. It was, "Yes, it costs us money; no, it doesn't cost us money." As a result, the public really did not feel they were being informed of anything.

Mr Brown: So there were no particular numbers given, no particular cost savings for the Glencoe registry office?

Mr Diamond: I asked Ms Kirsh for those and she pointed at a file, but she did not cite any specific numbers. At one point she told me the Glencoe office was more efficient than the London office in terms of the per transaction cost, whatever she may mean by that, and about five minutes later she told me the exact opposite.

Mr Brown: In other words, you were not very satisfied with the responses you got.

Mr Diamond: That is one way of putting it.

The Chair: I want to thank the Glencoe and District Historical Society for making its presentation today. It will be part of the record. Thank you very much.

Mr Diamond: We would like to thank you very much for the opportunity to state our case. It is unprecedented, in my opinion. Thank you very much.

Mr B. Murdoch: Mr Chairman, I would like to provide the committee with a notice of motion that tomorrow during the committee debate of its report I intend to introduce for debate the following motion. I think we have some copies we could give out. I will read the motion.

"That it be moved that the committee recommend the closure of the provincial registry offices be held in abeyance until such time as the Polaris system has been brought into full and complete operation; and that at that time only this committee reconvene to examine the effects of the introduction of the Polaris on the provincial registry offices, including a complete analysis of all costs and savings associated with any closure of these registry offices as proposed by this government."

The Chair: Thank you for your notice of motion, Mr Murdoch. We will deal with this tomorrow at the appropriate time. The committee stands adjourned until 10 tomorrow morning.

The committee adjourned at 1749.

CONTENTS

Monday 29 July 1991

Closure of land registry offices	G-991
Canadian Bar Association—Ontario	G-994
Terrance Carter	G-997
Association of Ontario Land Surveyors	G-999
Patrick Galway, Dorothy Finner, Garth Teskey, Jonathon Robinson	G-1001
Afternoon sitting	G-1008
Ron MacDonell, Raymond Lapointe	G-1008
Douglas Grenkie	G-1011
Karen Gorrell	G-1013
Bill Dillabough, J. P. Touchette	G-1014
Maurice Sauve, Pierre Aubry	G-1017
Richard Tobin, Barry Laushway, Wilfred Peters	G-1021
Coalition Against the Closing of the Registry Offices	G-1025
Gil Deverell, Derek Graham	G-1030
Ontario Public Service Employees Union	G-1035
Glencoe and District Historical Society	G-1038
Adjournment	G-1040

STANDING COMMITTEE ON GENERAL GOVERNMENT

Chair: Mancini, Remo (Essex South L)**Vice-Chair:** Brown, Michael A. (Algoma-Manitoulin L)

Abel, Donald (Wentworth North NDP)

Bisson, Gilles (Cochrane South NDP)

Drainville, Dennis (Victoria-Haliburton NDP)

Duignan, Noel (Halton North NDP)

Harrington, Margaret H. (Niagara Falls NDP)

Mammoliti, George (Yorkview NDP)

Murdoch, Bill (Grey PC)

O'Neill, Yvonne (Ottawa-Rideau L)

Scott, Ian G. (St George-St. David L)

Turnbull, David (York Mills PC)

Substitutions:

Conway, Sean G. (Renfrew North L) for Mr Scott

Fawcett, Joan M. (Northumberland L) for Mrs Y. O'Neill

Ferguson, Will (Kitchener NDP) for Mr Bisson

Tilson, David (Dufferin-Peel PC) for Mr Turnbull

Villeneuve, Noble (S-D-G & East Grenville PC) for Mr Turnbull

Also taking part:

Arnott, Ted (Wellington PC)

Jordan, Leo (Lanark-Renfrew PC)

Clerk: Deller, Deborah**Staff:** McNaught, Andrew, Research Officer, Legislative Research Service



ON
16
3



G-26 1991

G-26 1991

ISSN 1180-5218

Legislative Assembly of Ontario

First Session, 35th Parliament

Assemblée législative de l'Ontario

Première session, 35^e législature

Official Report of Debates (Hansard)

Tuesday 30 July 1991

Journal des débats (Hansard)

Le mardi 30 juillet 1991

Standing committee on general government

Closure of land registry offices

Comité permanent des affaires gouvernementales

Fermeture de bureaux
d'enregistrement immobilier



Chair: Remo Mancini
Clerk: Deborah Deller

Président : Remo Mancini
Greffier : Deborah Deller



Table of Contents

Table of Contents for proceedings reported in this issue appears at the back, together with a list of committee members and other members taking part.

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at (416) 325-7400.

Languages in Hansard

Hansard reports all debates in English or French as spoken by the participants. It does not translate remarks made in either language. Headings and tables of contents reflect language use.

Subscriptions

Subscription information may be obtained from: Sessional Subscription Service, Publications Ontario, Ministry of Government Services, 5th Floor, 880 Bay Street, Toronto, Ontario, M7A 1N8. Phone (416) 326-5310, 326-5311 or toll-free 1 (800) 668-9938.

Table des matières

La table des matières des séances rapportées dans ce numéro se trouve à l'arrière de ce fascicule, ainsi qu'une liste des membres du comité et des autres députés ayant participé.

Il existe un index cumulatif des numéros précédents. Les renseignements qu'il contient sont à votre disposition par téléphone auprès des employés de l'index du Journal des débats au (416) 325-7400.

Langues paraissant dans le Journal des débats

Le Journal des débats rapporte en anglais ou en français les débats, selon la langue utilisée par les participants. Les remarques faites en l'une ou l'autre langue ne sont pas traduites. La langue des en-têtes et de la table des matières reflète la langue utilisée.

Abonnements

Pour les abonnements, veuillez prendre contact avec le Service d'abonnement parlementaire, Publications Ontario, ministère des Services gouvernementaux, 5^e étage, 880, rue Bay, Toronto (Ontario) M7A 1N8. Par téléphone : (416) 326-5310, 326-5311 ou, sans frais : 1 (800) 668-9938.

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON GENERAL GOVERNMENT

Tuesday 30 July 1991

The committee met at 1003 in room 228.

CLOSURE OF LAND REGISTRY OFFICES

Resuming consideration of the designated matter pursuant to standing order 123, relating to the closure of 14 land registry offices.

PETER T. FALLIS, DELTON BECKER,
HARRY R. WHALE

The Chair: I would like to call the standing committee on general government to order. There have been some minor changes in our scheduling today, and I understand that the individual presenters who were scheduled for the first hour have decided to make a joint presentation. Is that correct?

Mr Fallis: That is correct, Mr Chair. That was the way the invitation was extended to us.

The Chair: That is fine. I understand Peter T. Fallis is going to act as a co-ordinating person. We will just turn the floor over to you, and you can introduce your entire delegation, and for the record you can tell us whom you are representing. You have approximately an hour, and you can retain some time for questions and answers.

Mr Fallis: I will indicate at the outset that my name is Mr Peter Fallis. I am a lawyer from Grey county. I have with me two other presenters, Mr Delton Becker, the reeve of Bentinck township and former warden of Grey county, and is Mr Harry R. Whale, Ontario land surveyor from the town of Hanover. They will be making a presentation.

I might indicate to the committee that I notice it is very few in number and I do not know to whom I am talking, because there seems to be nobody here.

Mr Mammoliti: The important ones are here.

Mr Fallis: Yes, good. Before I go to the other presentations, I wish to announce that it grieves me to announce that while we sat here in this hearing yesterday in the comfort of the fact that only after November 29, 1991, would a closing and transfer of documents take place, the Ministry of Consumer and Commercial Relations, unannounced to anybody, arrived in the registry office at Durham and removed all the registered instruments from 1848 to 1948 that were stored in that facility.

Those instruments were removed yesterday, in 23 bags apparently, and taken to unknown parts. I am grieved that in the face of the fact that these hearings are going on, when the very issue of closures is at stake and it is before your committee, the ministry staff would act in such a callous and contemptuous manner towards this committee and remove the 100 years of instruments yesterday from the Durham registry office.

Mr Runciman: Unbelievable. It is in contempt of the committee.

Mr Fallis: Mr Chairman, I am very grieved by the actions of the ministry and I would ask that your committee immediately initiate an inquiry. I do not know how you have to do it, police or whatever, to find out who authorized the removal, when the removal was authorized, who executed the removal, where the instruments were taken and when they will be returned.

I would say it is in total contempt of this committee and brings the whole system of the administration of justice, which the registry system is part of, into disrepute in this province and violates every sense of the Charter of Rights, a right to a fair hearing and the right of the users of that facility to have access to the potential of those documents, albeit they were ancient documents. They are our heritage and they are the heritage of this province. For them to remove those while this hearing is going on, I think, is tantamount to—I do not know who authorized it, but I believe this committee should take some action. I may be spoken to after the presentation if somebody wishes to confirm any information.

Mr Runciman: Mr Chairman, if the witness does not mind my intervention at this point, I do not know whether the clerk or you can advise me in the procedural whereabouts with respect to this, but I would like to make a motion at this time that we follow the witness's advice. I think indeed this is a contempt of this committee with respect to its proceedings under way in trying to deliberate on this whole question. The ministry intervening at this stage certainly undermines the efforts of this committee to take a look at the whole question of the appropriateness of these closures, and I would like to make a motion so that we can have that information made available, today if possible.

The Chair: Would you care to prepare or draft this motion, because I think there is going to be further debate on this. I saw two or three hands go up right away. Would you care to draft a motion in co-ordination with the clerk while we continue on so that all the committee knows what we are ultimately going to debate? I thought I saw Mr Brown's hand go up.

Mr Brown: I am just sharing the thoughts of Mr Runciman in this matter, that it is a serious matter and that the committee and the presenters certainly deserve to have the answers they request. Certainly it appears that the minister moved in a capricious and totally unconscionable fashion, given the committee hearings yesterday and today. I would appreciate that information, and when Mr Runciman has the resolution drafted we would certainly be in support of it.

Ms Harrington: I would certainly like to find out from the ministry what this is all about. I have just come in and heard what happened yesterday. I would certainly like to ask the ministry for its side of what has happened here.

The Chair: Maybe Mr Daniels can come and we can save a lot of time. Mr Daniels, if you would take a seat before the committee and identify yourself for the record, if we are all in agreement, maybe the committee could hear your presentation for a couple of minutes and we will have a few short questions and answers.

1010

Mr Fallis: Mr Chairman, I might just indicate at the outset that the instruments themselves are not instruments that are readily available for use on a daily basis because of the fact they have been gathered in a containment area for storage. But the fact is that they were removed. The custodial area is to be the repository in the Durham registry.

The Chair: We understood your point, Mr Fallis.

Mr Daniels: The removal of instruments from prior to 1948 is a long-standing issue with the ministry, going back to 1987, when we began negotiations with the Ontario Historical Society. Pre-Confederation documents were removed and moved to the Archives of Ontario.

At the same time, we worked out with the archival group, the archival standards, the Ontario Historical Society, the conservation societies of Ontario, what we would do with the instruments prior to 1948. They were microfilmed and are retained in the land registry office as microfilmed instruments. The paper documents are part of a retention schedule. Some will be destroyed, a lot of the discharges and such. I am going to bring you a copy of the agreement with the Ontario Historical Society, with the conservation societies, about which instruments prior to 1948 would be retained, which would be retained only on microfilm and which would be retained in hard copy.

This is a 1987 decision and negotiated with the historical societies up until, I would say, 1990. I will bring you the final agreement and we will table it here. I do not have it with me, but we are talking about something that was under way, is under way across all Ontario. Our offices would collapse under the weight of paper that we gather of discharges, mortgages, etc. That is why over the years we have moved to microfilm. So this is quite separate and not part of the integration process, but was ongoing records retention as part of government maintenance of papers.

Ms Harrington: When was that initiated?

Mr Daniels: That I do not know. It just would be part of the normal process of picking up these bags of paper. I was in Parry Sound a couple of weeks ago, and we store the Newmarket documents—because there is no room in Newmarket—in Parry Sound, just to create space. But it would have no relation at all to the integrations.

Mr Mammoliti: He has answered one of my questions anyway, and that is its being totally separate from what we are dealing with here today.

Mr Daniels: Totally. Absolutely. It is happening all across Ontario with the pre-1948 documents.

Mr Mammoliti: In view of its being separate, I would suggest that we go on with our business.

Mr Daniels: I think what will help is when I table the agreement between the ministry and the Ontario Historical Society. You will be able to see what it is all about and that

it was done in consultation with the user groups, with the conservancies and the historical societies, because they were concerned what instruments would be retained and what instruments would be retained only on microfilm.

The Chair: I was wondering if Mr Runciman had any questions, because Mr Runciman was going to make a motion. I want to make sure that all the committee members feel comfortable before we carry on, and that way we can easily move into the next phase of the hearings here.

Mr Runciman: I guess I would like to hear a response from the witnesses. If nothing else, it sounds like pretty lousy and insensitive timing with respect to this move, but if there is more to it than that, I would like to hear from the witnesses.

Mr Fallis: The instruments have been there in that registry office and the concern has been over the way they have been stored. They have been bagged, but nevertheless they have been the property of that repository in that facility, and for them to be removed—I have made my statement before. I hear what has happened, but I do not want to delay the presentations, because we have a presentation to make.

Ms Harrington: Just to finalize this particular question, because Mr Daniels is here now, if there is any further clarification needed, I am wondering if you would like to ask Mr Daniels.

Mr Fallis: I have heard his answer. I have no questions to ask of him.

The Chair: Mr Fallis, we will just continue.

Mr Fallis: I would like to turn the presentation over to Mr Harry Whale.

Mr Whale: I thank you for this opportunity. If you will bear with me, I would like to read my presentation more or less verbatim in case I miss some point.

I am an Ontario land surveyor and a past president of the Association of Ontario Land Surveyors. I have been in private practice in Hanover since 1961. For the first 12 of those years, I was also the director of public works for the town. I have also been chairman of the Hanover parks committee, president of the chamber of commerce, chairman of the industrial committee, and at this time, chairman of the board of governors of the Hanover and District Hospital. Each of these last three offices, I might add, has been without remuneration. All of this I mention only by way of background and to maybe lend some credibility to my comments.

My initial gut reaction to the sudden announcement of the closings was one of shock, incredulity and then indignation and anger. Having pondered this, my own reaction and that of others, I have come to the conclusion that there are basically two aspects to it.

First, and probably over the long term the more important, is the humanitarian aspect. The Durham registry office stands at the intersection of the Garafraxa Road and the Durham Road. These are two colonization roads surveyed and opened before the surrounding territory was surveyed into townships. These roads were opened to facilitate the settlement of south Grey and north Wellington, among other territory. Our registry office stands and should continue to stand in this location as a sentine

of our very heritage. Within its portals are recorded the history of the land upon which we live and the history of those who lived upon that land before us.

By the nature of their work, surveyors are acutely aware of the trials and tribulations and the sheer effort and perseverance required of the earlier settlers to survive and to develop the fabric of the society we enjoy in south Grey today. More and more often, one can see people in the registry office attempting to trace their ancestry or researching township history. Government has no right to take this from us. To do so without inviting comment or consultation is an affront to our dignity and integrity, and strikes at the very foundations of that which makes us proud Canadians and Ontarians. The whole process smacks of some clandestine Big Brother type operation. It makes no allowance for local autonomy and is tantamount to writing us off as far as this ministry is concerned.

The other aspect of my reaction to this announcement is the economic factor. Since this concerns my own survival, I confess to a certain self-interest in the subject and hope you will bear with me if I make my point from a personal perspective.

During my term as chairman of the Hanover industrial committee, I discovered just how difficult it is to bring industry and commerce, and therefore jobs, to small communities in rural Ontario. In my present position as chairman of the Hanover and District Hospital board of governors, I just signed a budget that, because of the recent wage settlement with nurses and in the absence of any increase in government funding to cover same, could only be balanced by reducing some services and laying off some employees.

As an employer, I will tell you that my firm has been on work-sharing since February. It runs out at the end of this week, so yesterday I gave notice to three of my employees. In short, the job market in south Grey is not exactly flourishing.

I chose Hanover to set up my practice 30 years ago mainly because of its proximity to the registry offices in Walkerton, 10 kilometres to the west; Durham, 18 kilometres to the east; and Arthur, 58 kilometres to the south. I run a modest operation with a regular staff, until the end of this week, of 11 employees who between them have 23 kids and God knows what in mortgages. Of the 11 employees, 10 are the main breadwinners in the family.

Should this move go through, I estimate that surveys by my firm will increase in cost by an average of about 8% due to increased driving time and distance. This means survey firms in Owen Sound and Guelph will have a distinct advantage over mine. Therefore the 11 jobs are suddenly in jeopardy, not because of the general economic situation, not because of poor performance on the part of the employees, not because of inefficient management on the part of the employer, but because a bureaucrat has been able to convince the minister that 70 cents per transaction can be saved.

1020

I am sure I am not alone in this situation. Other firms, be they lawyers, surveyors, title searchers or appraisers, must be similarly affected to a greater or lesser degree. We, the users of the registry office, cannot take our business

elsewhere. We must attend at the registry office and do our work there on the premises. We are entirely at the mercy of the system and apparently have absolutely no say whatsoever in how it operates.

Some time in the past year, I was invited by the respective registrars to fill out a questionnaire regarding both the Durham and Arthur offices. My comment was approximately, "It is working beautifully; change nothing until Polaris comes into effect." This is still my point of view and that of other surveyors affected by this proposal. We are not against progress, but why disrupt the existing efficient system until the actual advent of Polaris within the next eight years, at which time the entire situation will probably have to be reassessed?

Two or three weeks ago, I heard John Sewell, chairman of the committee recently appointed by government to study land use in Ontario, state on CBC radio that he is very concerned about preserving the identity of rural Ontario. I suggest that the proposed closing of the registry offices in Durham and Arthur flies in the face of such a sentiment.

I respectfully urge this committee to persuade the Minister of Consumer and Commercial Relations that this is indeed not a well-founded proposal, but rather is based at best on dubious information and hasty conclusions and can only serve to alienate the citizens of south Grey and north Wellington and threaten their livelihood.

Mr Becker: I would like to thank you for this opportunity to present the concerns of our very fine taxpayers in south Grey.

First I will bring you a brief history of our heritage. The registry office moved from Meaford to the Durham area in 1848. The township of Bentinck, which I represent, was first surveyed in 1850. The first council meeting was also held this same year. The town of Durham was incorporated in 1872. Before that date, it existed as a village partially in Bentinck and partially in Glenelg. The county of Grey operated this service for about the first 100 years. Perhaps we should reassess the situation to look at the county resuming the service it provided in the beginning. Sometimes a government that is closer to the people can be more sensitive to the needs of the people it serves.

I hope you can understand why we feel this registry office is so important to our heritage in south Grey. The roots of our heritage and our history are recorded in this office, located in the midst of the area it serves. Particularly in the present times when people like to research their forefathers, it is right there, allowing us to research right in our own community. I think that is very important to our history and certainly to the residents who are in south Grey, and no doubt important in all the other closures that are being proposed.

I think it is rather unusual for any service the government provides to operate at a profit, and any that do should be preserved to act as role models and remind us that, after all, that is how it should be. From the figures we have collected, the Durham registry office has shown a profit over the expenses of operation of about \$100,000 a year for the last three years.

The most important losers in this proposed move are the people who are dearest to my heart, probably because I

am one of them. They are the residents and taxpayers who are already overburdened by taxes and by a lower income and higher unemployment than is experienced in a lot of the more industrialized areas of the province. There has been no concern or understanding for rural Ontario. A minority live in rural Ontario, and we are being ignored in favour of the more populated areas, the cities, with a complete lack of understanding of our needs.

This plan does not conserve gas and alleviate pollution for a government that professed to be an environmentally friendly people's government. People is what we are here for, and a system to better serve the needs of the people who use it. It has been said that the system would be better served. Maybe the system would be better served, but not the people whom it serves, and that is why I am here today.

I would like to thank the professional people who have taken up this cause on behalf of south Grey residents to make this presentation to you today, but they are not the largest financial losers. The real losers are the 25,000 people whom this registry office has served since its conception 143 years ago. We cannot step back and watch our heritage being taken away. We must fight back.

There will be additional costs to cover the increased cost of travelling approximately 48 kilometres to Owen Sound. That figure is derived from the distance between Durham and Owen Sound. For a lot of our residents it is much farther than that. That probably does not even meet an average, and that is one way to the city of Owen Sound. For lawyers, paralegals, surveyors, municipal staff, real estate people, etc, the additional time and inconvenience will be paid for by our already overburdened residents.

As farmers, we cannot afford to pick up any additional costs. As an example—it is only one example; I could have used any other commodity—we are delivering wheat to the elevators for an initial return of \$70 a tonne, the lowest price the farm community has had to accept for well over 40 years. Yet when we go to purchase a loaf of bread at the grocery store, the price has never been higher. I ask, where is the fairness?

There is only one taxpayer, so please do not let our provincial brother deliver yet another devastating blow to our very valuable residents of south Grey. We are not asking you to spend millions to provide a new service, but only to maintain a service that we have enjoyed since 1848. May I remind you again that it operates at a profit. We are not prepared to accept this arbitrary move by the province, by a government that has stated on numerous occasions that it is going to consult with the people of Ontario before it makes a decision that is going to seriously affect the lifestyle and the standard of living we have enjoyed in this province until now.

On May 29, 1991, the Honourable Elmer Buchanan stated, "There has to be a better spirit of co-operation between government and rural communities in order to serve and strengthen" our residents of rural Ontario. I ask you to demonstrate the spirit of co-operation the honourable minister referred to.

Premier Bob Rae spoke to the Association of Clerks and Treasurers of Counties and Regions of Ontario in Peterborough soon after being elected Premier of our province and

spoke of the co-operation his government would deliver to the municipal partners. David Cooke, Ontario's Minister of Municipal Affairs, recently announced the government's \$13.4-million package to boost economic development in 69 municipalities. The program's goal was to help ensure Ontario's communities remain vital, attractive and economically sound. The government as quoted by Mr Cooke is "demonstrating the high priority it places on local job creation and other economic spinoff. By stimulating local economics, the province can help our communities remain strong and viable places to live and work."

Is the proposal to close 14 registry offices in the province not in direct conflict with these statements? We all thought that maybe this new government would be a breath of new life and co-operation for Ontario, but I am sorry to have to say today that until this point we have not seen new co-operation from our provincial partners. Instead, I find myself embarrassed by the lack of that co-operation or even being able to tell my ratepayers we were consulted before such decisions as this one to close the registry office in Durham were made. I am sure the residents of the 14 other municipalities or the municipal politicians could say the same.

Again, I ask you to reconsider the decision to close the Durham registry office before adequate consultation with municipal politicians, lawyers, paralegals, surveyors, real estate people and, equally important, the residents who are most seriously affected because they have to pay the bill. We cannot accept the present decision to close this office, so please reconsider. I ask you to reconsider on behalf of the little people of Ontario. Not because we have lawyers, surveyors and municipal politicians here to speak to you. Somebody has to bring the message and we are carrying that message.

All of us who are here to speak to you today are residents of southern Grey. We have not been brought in from outside our area. We are all residents and we are speaking for the little people. I ask this committee to please take steps to have the minister reconsider the decision that was made on whatever information she was given. I believe the facts you will hear today will offer an opportunity for the minister to reconsider. I believe she has been given some facts that perhaps were not researched thoroughly enough. With that I conclude.

1030

Mr Fallis: Yesterday the committee was given a report that was submitted and it is part of our presentation—the presentation from Arthur and Wellington. We did an evaluation impact study together. We went together to pool our resources and I wish to just briefly take you through it. It is there for the reading and I implore you in your considerations to read it. I might indicate that the report was prepared with the valuable assistance of the government relations consultant, Mr William Kennaley.

In the report there is a part at the front which are the recommendations we will ultimately be making to your ministry as to what you can do. There is an executive summary in blue at the front which is several pages, setting out the summary of the facts. The bulk of the report really

discusses the minister's comments. Starting on page 13 is "The Improvement in Customer Service," the comments we found on that. On page 14 is "The Question of Efficiency" On page 16 is "The Alleged Savings." On page 18 is the negative impact on the community. On page 21 is the convenience to the public and how it negatively impacts them. On page 26 is the difficulty we have had in obtaining information from the ministry.

I think you gathered from all the presentations that in effect the ministry has stonewalled any attempts to get valid, credible information to make a presentation to you. It is what we asked for and what we have not got, except that I suppose with the persistence of our inquiries we have been able to get it.

I would like to go directly to the issue of costs and savings as I think that is what the focus of this hearing is really about. You have heard the heritage. You have heard the feelings of rural Ontario. It is spoken loud and clear. But I think it is time to move into the other areas. I can safely say I am speaking for a lot of other registry offices that have not been able to find those facts because the ministry has withheld the information needed to make a proper presentation to you.

The Durham registry office, if you look at page 17 of the report, generated last year in revenue \$215,842, and in 1989 it generated \$218,613 against costs in 1989 of \$84,000 and in 1990-91 of \$107,000. Two years ago there was \$133,000 profit. Last year there was \$108,000 profit. That means the system, and it has been dedicated to be, is a user-pay system. The users are the public who walk into the facility and pay charges for using the system to register, to search, to do things. That happens in Arthur, it happens in Durham, it happens in every one of the presenting registries you heard from yesterday.

But they have not been given the figure as to the cost. It has been denied to them; it was denied to us as well. We found those figures. They are stated in this material before you, stating that it is confidential information—freedom of information act. Mr Chairman, that is crap, that is absolute falsehood, that statement by the ministry. It is public information on the fees book in every registry which each register must maintain. There is no charge for looking at that book and we found it last Wednesday only because we did not know it was contained there. It is public information and hence the figures. Every other registry office can find the same information as to the costs of their office. So the minister has been misled, we have been misled, we have been told it is confidential. It is entirely a public document and that is where the information comes from.

To say you are moving the savings when the Durham registry office and the Arthur registry office both turned profits into the province—and you must realize that fees are usually there to operate a system. Taxation is a form of raising money for other purposes. But when you can turn \$100,000 profit on a yearly basis, which we have estimated conservatively over the 13 years since 1978 is almost \$750,000 to \$1 million to \$2 million that we have actually given to the province out of those two registry offices, it is hard for us to be persuaded that closing us is a

savings, because you must look at how the office operates. Nobody has told you this story and I am about to.

Three ministries are involved. There is the Ministry of Government Services, who is the landlord. They rent the facilities for all the places in the province. There is the Treasurer of Ontario, who is the recipient of all the moneys. When we go into the registry office we write a cheque out to the Treasurer of Ontario and it goes to the consolidated revenue fund. The third ministry involved is the Ministry of Consumer and Commercial Relations. They are in effect the staffing—for want of a better word, the grunts—who have to do the work, to lift the books and make the system work. They do not receive the revenue and they do not pay the rent. They have a budget in which they work to put people in the facility. It is a combined government that operates this system, it is not MCCR alone. It is the Ministry of Government Services, the Treasurer of Ontario, and MCCR who staff the facility.

I have proved to you, and I think the figures speak for themselves, that there is no cost or burden on the province. There is \$100,000 a year to the good in Durham and \$60,000 right now in Arthur. The savings: What is going to come about by moving it to the other facility? That is a question we asked the ministry at the outset; May 7 they closed it, May 8 the question was asked. Demonstrate to us the saving afterwards. The report came back, "Confidential, we can't tell you." You are the committee: You ask them; they are going to be here today. I would like to hear the answer and do it on a registry office basis, one by one. You have the figures for Durham, show them the saving.

1040

Our committee brings a lot of experience to the hearings. In 1978 Durham was faced with the announcement it was going to be closed and we were one against the whole province. We were one of 27 scheduled for closure, and of those 27 we were the first one to be attacked. To resist the closure, we had to fight the whole concept in the province and we won.

Since 1978, that office has been run with two people; 7,000 registrations a year, two people. There is no way that can be done by any fewer people no matter where you are.

In Owen Sound there are 13,000 registrations a year, seven people. That is 1,900 registrations a person. In Durham we are doing 3,500 a person. It is a pretty tight little ship and it is running well. It cannot be done with any less.

Look at the savings. On the rent side, that is the Ministry of Government Services, there is a perception of saving \$9,000 a year for rent. There is a perception that it would be saved—the county is the landlord in both facilities. If anybody thinks the county is going to accept that the ministry will double its volume in one office at the expense of the other for the same rent, they are not a very good businessman because the county will charge more rent for the entry into that facility. No question. So there are no savings on rent, and it is not this ministry that pays freight and rent anyway.

Staff: The labour part of it has been guaranteed. Two people have been guaranteed a job in Owen Sound. There is no labour loss because they are going to be guaranteed a job, albeit it will cost them \$5,000 a year in travel to get there to do the job that they do not have to drive to now.

The other side of the equation is the supplies. To register you need requisition slips, abstract pages, copy paper and so forth, but that is all a product of searching. No matter where they do the 7,000 registrations, that paper is going to be consumed in Owen Sound or Durham, so there is no cost saving there.

My gut response to the stated saving, that there is \$1 million savings in the province, is that there is none in Durham, there is none in Arthur, and if we had the figures I could list the figures and walk you through each of the registry offices in the province saying there are none in any of the registry offices in rural Ontario. I am almost positive in saying that.

How can you achieve savings? There are some ways to achieve savings in a system without closing the registry offices. In Durham we learned that in 1978 at the suggestion, I might add, of an opposition critic at that time of the Ministry of Consumer and Commercial Relations, Mr Michael Davison, the NDP critic, who came up with a suggestion in 1978 that was acted on in Durham, to eliminate the position of registrar, satellite it to one that is a larger registry office, and save that money. Mr Frank Drea, who would replace Mr Grossman as minister, implemented that suggestion of the NDP, and it was a very positive and powerful and working suggestion. Unfortunately, it has not been implemented in other registry offices and very easily can be.

An example is the registry office in Arthur, which has 5,000 registrations. Durham has no registrar. Arthur has 5,000 registrations until July 15 of this year and had a full-time registrar. That position can be and now, as of July 15, has been eliminated. It has gone from three to two. It will save \$55,000 a year by the elimination of that position.

I suggest that if your committee wishes to look at savings in the system, you can save money without closing service. You can save people. That is where it can be saved. You can pare it a little further.

I suggest the statement by the minister's representatives and emanated through the minister that there is \$1 million savings is nothing but bafflegab. The way they have expressed it and the only way they will come back to us is they say it is a cost per transaction.

A definition of "transaction" is found in the red volume, on the back of page 17. After we said: "What is a transaction? There are 7,000 registrations a year?" they said there are 10,000 transactions.

Here is bafflegab for you, signed by Carol Kirsh, director, real property registration branch: "With respect to the term 'transaction,' it is the workload factor used to measure all work performed in a land registry office. The number of transactions is not an empirical measurement, but rather the result of an algorithm relating the many factors detailed in the definition of 'transaction.' The same process is used in each registry office to determine the number of transactions, and therefore the numbers obtained are statistically significant and may be used for comparison purposes across the entire branch."

You are paying this person \$80,000 a year to define that? Give me a break.

The Chair: Do you want to read that again?

Mr Brown: That is right, we missed something.

Mr Fallis: It is on page 17, on the back of it.

The real significance is, how many deeds do you register and what is the cost of operating? You do it on a cost basis, that is what you do. Actually, the last time there was a closure—it is set out at page 47—when we asked for the thing in 1978 from Larry Grossman, the closure was in April and on May 25 we had a response from him. He told us the salary cost per registration, the number of registrations. It is all there. It is a very clear statement as to what you want.

In 1990 was the Freedom of Information and Protection of Privacy Act—it is called the secrecy act, by the way—you do not get anything because of that act supposedly, or they hide behind it.

I suggest that our demand for figures is very proper, very real, and it is a proper request made by all of the delegations.

In summary, there are no savings by the move to Owen Sound. They are not substantiated. There is a profit to the province which can be preserved by staying in Durham, by staying in Arthur and, I say, by staying in probably all of the registry offices.

If you look at it in its true sense, this is what has happened. You have a young minister who has been appointed to office after Mr Kormos resigned from his position. She has been in there a couple of months and she has staff in whom she has to have confidence to rely upon. They have been working on the system, and I do not think it is NDP policy, I do not think it is Conservative policy, nor is it Liberal policy; it has been bureaucratic policy that has been focused. They are the people that have designed this, and they have taken a green minister and said, "We can save you a million dollars a year." If I were a minister, I think I could trust my staff, I would have to have that trust, and I think the public has to have trust in their staff, and my reaction would be: Where do I sign?

That is exactly what she did. The press release was there, she signed, she stood behind her staff and relied on her staff to provide her with accurate information. The same information that has been withheld from Durham and from Arthur and from all the other registries, I suggest, has been withheld by Mr Daniels and Ms Kirsh from that minister. They are the ones who have withheld that information and have put her in the embarrassing position that this hearing is going on because of the lack of proper information.

I think what we have here is a situation where she put her ministerial career on the line by saying, "Where do I sign?" when there are certain facts that had been misrepresented to her. I would like to go through the facts that have been misrepresented to the minister and, I would say, misrepresented to us, and, in fact, to you. I think Mr Daniels, who is here today and listening to this, owes you an explanation.

First of all, fact 1: In Durham there are no savings, and I think the figures I have just gone through demonstrate that. We were generating \$100,000 and, after closure, will still be generating \$100,000 and there will be no savings as a result of the merger.

Fact 2 is that there is an \$8 million capital savings. How do you achieve that? The county is the landlord in

both facilities. There is no capital cost to incur in Durham and no capital cost to incur in Owen Sound. Those are costs that would be incurred by another government if the request were made of them to incur it. It would be incurred by that landlord. So there are no costs that are going to be incurred. Same as Arthur. Wellington controls both facilities, is the landlord in both facilities. There are no capital costs that will be incurred.

Fact 3 is that the closures can take place without a problem. This is the problem. We are here and we are about to show that there is a problem for Ms Kirsh and Mr Daniels to recommend that.

Fact 4: No notice is required to the users. That is what the representation was of the staff to the minister.

Five, that they had done a user survey and consulted with the users before the recommendations. You have listened to all of the presentations and we will hear more today to that effect.

1050

The confidence and trust and relationship and reliability of the senior staff must repose with the minister. This minister, I suggest, has been ambushed by her senior staff and is now being embarrassed by a complete absence of supporting facts. This committee must advise her of this, and I invite you to ask her to remove that staff from their employment for a lack of confidence. If my staff were the same, they would be out the door the same day if I was embarrassed in such a way. I suggest that that is what should happen to the staff.

The recommendations as to why the office must close: I suggest that is grounded and rooted in Polaris. The 1991 budget estimates you have created for this year have allocated \$19.4 million to Polaris this year. That is 20% of the entire MCCR budget.

This program will take 10 years to implement and has been on the road for 10 years, and its purpose, I submit, is to reinvent the wheel. It is to create a different system to do exactly what we are doing now. Is it better? We do not know. Is the present system working? It certainly is. Is there something that needs to be repaired? We are not telling you that; it is the ministry staff who are telling you that. If it ain't broke, don't fix it.

You are putting in \$19 million of money this year to design a system, one of whose stated objects is to hand it over to Real/Ontario Data Inc, a private consortium that will market this around the world. That is not the reason why we should be spending \$19 million.

There is \$15.2 million of fresh money that is coming into your ministry and the rest of it has to be grabbed by robbing from the real property division and from other divisions of the ministry to gather a million dollars here, a million dollars there, of perceived savings. We are not trying to save money for the province; we are trying to fund a system to reinvent the wheel, to design the Polaris system that we do not need. The system works.

The lawyers are the policemen on paper for the system. We make it work. That is our job. The surveyors police it on the ground, and they are doing their job. The system that we have presently is working.

What we are doing, I suggest, is trying to create a system to justify floors of bureaucrats who are going to

consume \$19 million in designing a system that we already have in place to guarantee work for this government bureaucracy. I am saying that they are living off the avails of taxation and on the backs of us who are trying to make a living and practise and do a job for the public who are being served.

The real reason that the closure is being done, I suggest, is to generate funds internally for the operation of Polaris.

I would like to indicate that in 1978 there were 27 registry offices that were targeted for closure. Those candidates are still there today. They have announced 12; there are 15 more. Those 15 that are still candidates for closure have been set out in the material at page 35 of the red book material. For those of you who wish to refer to it, they have been highlighted as a dark blocking in there on that material.

I would indicate that the test that was there in 1978 is exactly the same test that is there today. They want to downsize, centralize, consolidate the system into many fewer numbers. The test is to look at, if you want to verify it, where the regional assessment offices are located, because those numbering systems are the puzzle right now that exists to put the pieces together, all of the puzzle of Ontario. It is all done through a different number, it is on your tax bill, each number has a different code system there for each piece of property. That is where the registry offices are going to gravitate to if Polaris goes in.

You can eliminate a lot of places: Walkerton will go to Owen Sound; Orangeville will go to Peel; Brantford, St Thomas, Perth, Minden, Goderich, Chatham, Sarnia, London are Windsor-bound facilities; Lindsay, Welland, those will all be ones that will eventually be eliminated. The 12 that are here this year, I suggest that next year you are probably going to see another 15. I ask you, why are the 15 not being announced this year? The one thing that is there is a program the government has put in place to reward senior civil servants of an 11% bonus, announced by the honourable Frances Lankin, for cost-saving measures that are implemented. If they did all 27 this year they might get the 11%. If they split it in two they get the 11% twice. I do not know if that is right or not, but I am saying they make some candidates to be eligible for that, and that announcement is found on page 41 on the back. It is an article in the Toronto Star, May 23, and the quotations are in the book.

The recommendations that this presenter makes on behalf of his constituent coalition are, number one, that the standing committee of public accounts be convened to request the Provincial Auditor to perform a special assignment, namely to carry out a cost-benefit analysis to determine whether there are any savings as alleged. The authority for that is the Audit Act, section 17. The public auditor can be requested to undertake that special assignment. I submit that it should be done.

Number two, I would ask you to recommend to the minister that she immediately put a moratorium on her decision to close the 12 registry offices—the Cambridge and the other 11 rural ones—until that review is completed.

I would ask you, third, to recommend to the minister that the committee has reason to believe there is no evidence demonstrated that there are savings at any registry office.

On the contrary, evidence now exists that those allegations are incorrect, certainly in the case of Durham and certainly in the case of Arthur. I would ask you to recommend to the minister that she present an answer to the request that was made to her for facts and to eliminate the bafflegab and genuinely give her the statistics that everybody has been asking for and that the people whom you have heard to date have been denied.

Two things can be considered. One has been alluded to by Reeve Becker, and that is the fact that the county is prepared to consider taking over the registry system. I might indicate that the county has a recommendation from the property committee to do just that: to take over the registry system it ran until 1968 and which 25 years later the province is indicating it cannot run. Let the county do it again. The other is to consider merging the two registry offices of Arthur and Durham into one facility.

I would suggest that this committee give consideration to those recommendations and particularly the recommendations outlined in the front of the report in the pink sections, as I believe you will be well respected by your provincial constituents for so doing.

I might add that this should not be considered a matter that is party politics. I think it is a matter of a minister who has been given a set of facts. Be it any ministry, I grieve for a minister who has been asked by her staff to rely on a set of facts that just are not correct and which cannot be supported. I think the minister should show the courage that one would expect the minister to show to admit the mistake, as Terry Moore indicated in his presentation yesterday. All of you can walk proudly from this room knowing that you have done something meaningful for democracy. Rise above party politics, admit the mistake, have the minister admit that and deal with the staff who have misled her in that regard.

Those are my submissions.

1100

The Chair: Thank you, Mr Fallis, and I want to thank the entire delegation. I am going to allow two short questions from every party, if they wish.

Mr B. Murdoch: First, I would like to thank you people for coming down here and making your fine presentation. There is something I would like to ask and get on the record, because there are three of you here and from three different users. We have been led to believe here that there was quite a bit of consultation before this happened. Were any of you contacted in your businesses before these closures?

Mr Whale: Absolutely not in my case, no.

Mr Becker: Definitely not in my case.

Mr Fallis: Definitely not, from the legal community.

Mr B. Murdoch: So I hope you will stay around this afternoon. We will be able to ask questions and find out who these people had these meetings with.

Mr Runciman: I just want to reiterate, Mr Chairman, what Mr Fallis has been saying with respect to the minister. I believed from the outset, as the critic for CCR, that the minister was duped by senior bureaucrats with respect

to this matter, because this recommendation has been around for some time, since, I think, the onset of Polaris. You go back in your literature to Larry Grossman. For a variety of reasons that decision was not taken at that time, but the bureaucrats have persisted.

I think your suggestion with respect to the Provincial Auditor is an excellent one and something that even the government members of this committee should have no difficulty with. We are being faced with a decision here. Ministers are telling us that real cost savings are being achieved, and the government members should have no reluctance whatsoever in sending in an independent expert like the Provincial Auditor to come up with the facts for all of us in this committee and the Legislature at large, telling us what really is the case here.

Are savings indeed going to occur or have the minister and the Legislature and the public been sold a bill of goods by senior civil servants in the ministry? I think those are answers that need to be delivered and we can trust, I believe, the Provincial Auditor to deliver them and deliver them quickly so that we can get on with either backing off from this decision or proceeding, if indeed there are real savings there. I do not believe there are, and I think that all of us in this committee should have no difficulty with the Provincial Auditor doing a cost-benefit analysis.

Mr Conway: Just very briefly, Mr Fallis, could you explain a bit about Polaris? If it is implemented as planned, what impact is that going to have on the user in a community like Durham or Arthur? You seem to be rather more negative about the impact of Polaris than some of the previous—

Mr Fallis: The whole registry system is to record your deed so that another person can know that you own it and what you own. That is the whole object of the registry system. Polaris is only going to do that in another manner with an electronic system to record it, and it is only as good as the information that goes into it because that is all you get back out.

With our existing system, the information is there and you have the searching of title and working of all of the adjacent lands. It is a very complex but very sophisticated and well-utilized and respected system.

Mr Conway: I had the impression from earlier witnesses that it was going to be some kind of electronic highway that was going to provide much greater flexibility to both user and provider.

Mr Fallis: The one electronic medium they have right now is personal property security searches with chattels, with cars and so forth. The system is maybe a little bit better than what was there before; the registry system for chattels was pretty poor before, not as sophisticated as land registry. But the system is not perfect. An example: you have to put in the right name. My father's name is William Claude Elgin Fallis, but William is only on his birth certificate, and if you do not put in William it is not properly recorded. The computer system is a scary system sometimes. The human mind and the old systems sometimes have their ways.

Mrs Fawcett: Thank you, Mr Chairman. I really do not have any questions. I just want to congratulate you for a very thorough presentation. I think it has been one of the best so far. You have delved into a lot of areas and you answered any questions some of us might have. I want to congratulate you for that and sincerely agree and hope that the government and the minister in particular will take heed that a mistake has been made. We can all benefit from honest mistakes if they are corrected.

Mr Mammoliti: I too want to congratulate you. It was very interesting, and I want to thank you for being very specific about the cost. You certainly got my ear. I do want to ask some questions. Not to say that other presentations yesterday were not interesting, but some people talked about history and how much it is going to cost to travel and that sort of thing. Those are legitimate arguments, but the cost factor, the argument you brought up today, is something I am concerned about personally.

But I am also somewhat distraught in that yesterday and today individuals such as yourselves have said that this government has never consulted on this particular topic. I feel compelled at this point to stick up for the government and to say that I am proud that the government has consulted, not only in this particular area but other areas. We have gone through with our promises. I understand that we have consulted. I guess the definition of consultation would be my question. What do you mean by consultation? What do you expect from the government when you talk about consultation and can you honestly say we have not consulted?

Mr Fallis: As directly as I can honestly say, there has been no consultation. The only meeting I was ever invited to attend, and I have been very high-profile in Grey county in being a practising real estate lawyer and former president of the bar association, is a meeting that took place prior to 1978, prior to the closing of the other registry office. That meeting took place in the town of Walkerton. It is the only meeting I have ever been asked to attend at the initiative of the ministry and that is the extent of what has happened in Grey. We have not been asked.

Ms Harrington: I would like to thank you for this whole set of information you gave us. Obviously, this cost money to put together, and you have shown that you really do care when you put all this together. I spoke to you yesterday outside. I knew how earnest and eager you were, so I just wanted to thank you for coming today, staying over, in fact, for the two days.

The Chair: Mr Fallis, I want to thank you and your delegation for your presentation this morning. The committee appreciated your work.

Mr Fallis: Thank you very much.

The Chair: I understand that between 11 and 12 o'clock we had scheduled four presenters. They may wish to make a joint presentation. It is up to the individuals who are here. There have been some minor changes, I am also told.

1110

NORTHUMBERLAND BAR ASSOCIATION
NORTHUMBERLAND COUNTY LAW ASSOCIATION
DON CHALMERS
WALTER RUTHERFORD
GIFFORD, HARRIS SURVEYING LTD
KAWARTHA-HALIBURTON DISTRICT OF ONTARIO
LAND SURVEYORS

The Chair: We have Mr John Carter, Mr Wilfred Day, Mr Paul Smith and Mr Joseph Banbury. Mr Doug Mann is also going to join the group. If one of you gentleman would act as co-ordinator for your delegation.

Mr Carter: I will, Mr Chair.

The Chair: We are going to follow the same procedure. You have approximately 55 minutes for your presentation and answers and questions. Will you identify everyone for the record?

Mr Carter: I hope we will not take the whole 55 minutes, because we hope you will ask us some questions rather than have us do all the talking. The prior group obviously presented an excellent brief to you, the part I heard. I would echo our support of their proposals as well.

My name is John Carter and I am the president of the Northumberland Bar Association. To my left is Wilfred Day, who is on the executive of the Northumberland Bar Association, and Joseph Banbury, who is also on the executive. Joe is from Brighton, and Wilf is from Port Hope. I am from Colborne. Doug Mann is also a solicitor in Port Hope.

With our group today we also have the reeve of the village of Colborne and the mayor of the town of Port Hope, along with the president of the Kawartha-Haliburton District of Ontario Land Surveyors and two surveyors who work in the Colborne and Trenton area.

I will present the brief you have before you to start off, followed by Mr Day. After that, Mr Banbury has a considerable amount of correspondence he has collected from people who were not able to come today due to the fact that they had business commitments to take care of, not to say that they are not extremely interested in this issue.

I cannot say we are pleased to be here today, because of course we are not. We would rather be doing almost anything else than be here. But since the announcement on May 7, when the government announced it intended to integrate these offices, we have been extremely upset. You talked about prior consultation just a minute ago, and I can assure you that none of us received any prior consultation from the government with respect to these changes. If there was any consultation, it may have been made with the local staffs in the registry office, but it certainly was not made with the users.

All prior governments over the years, during the 20 years I have been in business, have always consulted with us whenever any major change is going to be made to our system. However, in this case, it appears there has been some change, probably because of the reasons stated by

Mr Fallis, which relate to the bureaucracy more than to the government itself.

Mr Day, as I said earlier, will be presenting the case for Port Hope. I am presenting the case for all the registry systems and the registry offices in our particular county, the village of Colborne, for example. Mrs Fawcett knows it very well. She happens to be a resident of that particular village. Colborne is a small village of 1,800 people and this is the only provincial office in that village. It acts not only as a registry office but as the distribution point for materials from the provincial government. There is no other office in the village. The general public makes considerable use of this office searching for their roots and also searching their own titles. The small size and convenient location of the office, and this applies to Port Hope as well, means that ordinary people are not intimidated by it. They come to that office, they can park right by the front door, they can walk into Colborne, there is no restriction. A wheel chair is accessible to the Colborne office. The friendly staff make it easy for ordinary people to carry out their business.

Of course, it helps us as well. The lawyers, surveyors and real estate agents in the area have located their offices in Colborne and Port Hope, partly on the basis that these offices exist in these towns. It might be difficult for some of these offices to maintain their viability should these registry offices be closed.

You should also be made aware that we not only are serving the Colborne area businesses but businesses as far away as Trenton and Belleville as well. If you look at the map attached to the rear of my presentation, you will see that the Colborne registry office serves a large eastern portion of Northumberland, but it also serves lawyers and title searchers and surveyors who work out of Trenton, Belleville, Frankford and other villages which are in the county of Hastings.

Murray township is the most easterly township in our county, and you can see that it kind of surrounds Trenton, which is over on the right hand side of the map. Many of the surveyors and lawyers in that area—and people, of course—do work for people who live in Murray township and therefore make use of the Colborne registry office. I can talk about the increased cost to the clients because of the extra travelling distances, but you are going to hear about this from other people and I am sure you understand it, in any event.

As I said earlier, the location and the size of these registry offices mean that the staff provide exceptional service. The amalgamation of the offices into a larger office will undoubtedly lead to a reduction of the quality and the time of service. We, the users of the system, know that the larger the office the longer it takes to carry out any task in that office. The result, of course, is increased cost to the user. We know that because we have to go to larger offices sometimes to do our own work and we can predict exactly the extra time it will take us in those offices, compared to the small offices of Colborne and Port Hope. People from outside the area enjoy coming to our offices from Oshawa and Toronto, for example.

The Chair: In light of the fact that our cooling system is not working we opened the window, so we will ask everyone to speak a little louder because I am having just a little difficulty. That is the best we can afford this morning.

Mr Carter: That may be the best you can afford, period.

As I said, the village of Colborne is a small village of 1,800 and this is the only provincial office in the village. The recent recession has taken its toll on Colborne, leaving many gaps on the north side of our business area. The closing of this office would be a devastating move to the village. Every day dozens of people, I would say, attend the Colborne registry office to carry out their searches and other work. Each of these people leaves behind a small amount of money in the restaurants and the businesses in the town. If this leaves us at a point like this, we are going to be in real trouble. The reeve may have something more to say on this matter.

Port Hope, on the other hand, is a little larger community. Probably the closing would not be a disastrous financial matter to them, but Port Hope, as most of you know, is a historical and architecturally beautiful town, and what better use could there be of a building of historical value than for it to be used for its natural purpose? If the building is closed, of course it would be preserved by the village or by some historical group. In a place like Port Hope, there are so many places like that now that I doubt anyone else would be able to take it over and maintain it. Government use is obviously the best use of this building. It has been the best use for 100 and more years; I do not see why it should not continue.

Both offices in Port Hope and Colborne are approximately the same size. The number of people served is also approximately the same. If you look on page 4, you will see I have listed the number of registrations relating to the population of each area of our county. Please note that Colborne has the largest number of registrations, consisting of some 37.5% of those registrations. Cobourg and Port Hope are much the same in size. We are closing the largest registry office and moving the facility to one of the smaller ones as far as size of registration is concerned.

Port Hope registry office has been renovated over the last few years, and minor repairs have even been made to Colborne. As a matter of fact, about a month after the announcement of the closing of the Colborne registry office, a truck arrived. They did a complete renovation of the washroom in the building. This is a building which has already been announced is going to close, so it looks like one arm of government does not know what the other is doing.

The village of Colborne has many sites available for an expanded facility as well. I have had clients come into my office and offer to donate free land for the building of a new community centre, which would include a registry office. I do not know how many places you get that kind of offer from, but I would ask that you consider that in Colborne. I am sure the reeve will expound on that matter of facilitating the construction of a new town hall and community centre. Our town hall at the present time is in an old high school with a considerable number of steps for anyone to get into. It is really inaccessible to a lot of the people in our town who are quite elderly. In any event, I believe the village

would be prepared to enter into a multi-use facility construction project with the province, or independently, if it knew the registry office would be one of the tenants.

One of the points made by the minister in her announcement, or in Ms Kirsh's announcement, I should say, was that the sheriff's offices are located in the towns where the registry office will be after the closings take effect. The fact is that the location of the sheriff's office has not been a difficulty in our area because the lawyers in the area have set up a fax system from their offices in Port Hope and Colborne so that the individual sheriff's certificates can be obtained by them before closing real estate transactions. It is not necessary to drive to Cobourg to get a sheriff's certificate before you register your deeds. We also provide that service to lawyers from out of town who might come into Colborne and need that service, if they forget to stop in Cobourg on their way or if they come from the other direction.

One of the most upsetting things about the announcement, of course, is the lack of consultation. The notice that was published on May 7 is an insult to our intelligence and contains many inaccuracies and untruths, as does the letter from the minister to Mr Day. I wrote several letters to the minister, I might say, as the president of the Northumberland Bar Association, and have not yet received a reply. The first one was sent on May 7 by fax.

In the notice to users put out by Ms Kirsh, she states that the Cobourg office was chosen because it already serves the majority of clients in the division. If you look at the figure on the last page, you will see that is not true. Cobourg in fact makes 32% of the registrations. I think you can extrapolate that to mean the users as well. In a recent letter to Mr Day, the minister states that studies have shown the majority of the system users are at or near Cobourg. I would beg to differ with that as well. If you look at my map, you will see the large area that Colborne covers. A study we did ourselves of the daily registrations over the last months shows that no more than 5% or 10% of the users of the Colborne registry office come from the Cobourg area; 90% are from Colborne, Campbellford, Brighton and east into Hastings county.

1120

I will not get into the cost matters here. My colleague Mr Day will probably do that, and Mr Fallis, my predecessor here, certainly covered that area to a great extent. You will see the conclusions we have made, though, and they are very simple and straightforward. I do not think anyone could not understand them.

We have not been provided the cost figures to prove that the million-dollar savings will be obtained. You have already been lectured on that one, I am sure.

The existing offices provide efficient, fast, friendly service which will deteriorate in a larger setting.

No consideration was given to the extra costs that will be incurred by the users of the system with the closing of these community offices. The public service has forgotten the meaning of the word "service" unless it applies to looking after themselves.

I can only add that my feeling on this is that what has happened is that the bureaucracy feels it would be simpler

for its purposes to operate with fewer registry offices in central locations. It is for their convenience, not for ours, that these registry offices are being closed.

I also referred earlier to the negative effects on the communities, and it will be a major effect on Colborne especially.

Item 5, I believe, is self-explanatory.

As I said, Mr Day will now make a presentation on behalf of Port Hope and Colborne as well, and we would like to leave time at the end so you can ask us questions.

Mr Day: I would like to thank all of you for giving up part of your summer to be here. I think you are getting my brief right now, and I will highlight the main points of it for you.

Costs are the main concern. The closure of these 12 offices will supposedly save \$1 million a year, but if the savings of \$1 million do not include accommodation costs, then the figure is meaningless. We would like to see the estimated savings of the two closures in Northumberland.

We believe these two closures would actually have a net cost, not a saving. The cost of more space to replace these offices will not be offset unless the old buildings can be leased or sold. The Port Hope and Colborne land registry offices, which are owned by the province, are not easily adaptable to any commercial use. Both are heritage buildings, which certainly no one would want to see torn down. The similar old Picton office ended up as a museum. We believe the provincial government would end up donating these offices for some such use. Since present staff would stay on, there simply is no saving.

The unique thing in Port Hope is that the deeds would under the government's proposal be divided between Lindsay, Peterborough and Cobourg. My written brief sets out the details of how this would work. Skipping down to point (d) on my brief, the point is that ministry staff are not yet sure how they would do this sorting job, let alone what it would cost.

Turning to point (f) in my brief, when this very move was considered by the government in 1978 and again in 1981 and again after 1985, each time the effort was found to be not worth the cost. No matter how logical splitting these deeds up may look when seen from Toronto, we cannot afford it now. And Peterborough would not only need more space but more staff. Also, the substantial renovations made to the Port Hope land registry office only four years ago, costing at least \$70,000, would be money down the drain.

If the ministry wants to save \$1 million, there are far simpler ways to do it. For example, a few years ago search fees were reduced. Under the new system it is a \$4 flat fee each time, a total of \$8 for a typical purchase. This fee is the bargain of the century. Even our local health unit charges my client \$25 just to tell us it has no file on the septic system. If only \$4 million per year now comes from search fees, a raise in search fees to \$5 alone would generate the necessary \$1 million. A raise to \$10 would give you \$5 million towards improvements to the system.

Returning to accommodation costs, we have all been amazed to note that the savings from these closures do not include the additional accommodation costs, simply because

those are paid for by the Ministry of Government Services. In some counties there may be no increased accommodation costs, but that would not be the case for Northumberland. Closures causing increased accommodation costs should not proceed until they have been fully costed. Even across the whole province, the costs of the closures, Carol Kirsh admitted, will wipe out the first year's savings, and in Northumberland it would be worse.

Wearing my other hat as a school trustee who has lived through seven years of cuts in government funding, I am well aware that all systems must be made more efficient. But there is no money to be saved in the Northumberland land registry offices except, as you have heard the last hour, by making Colborne a satellite office, which would save a few dollars. Port Hope already is a satellite office.

Consistency is a major problem. The ministry announcement says all offices will now be located in the same area as the local sheriff. This is not true. Minden is not being closed, although the sheriff's office is in Lindsay. Similarly, the notice posted says jurisdictions of land registration divisions will be the same as the administrative boundaries of the counties or regions they serve. This is also untrue. Niagara and Haldimand-Norfolk will continue to be served by two land registry divisions each. If you can live with this result in St Catharines and Welland and in Simcoe and Cayuga, you can also live with it in Colborne and Port Hope.

Port Hope has only 2.5 staff, which means staff occasionally has to work alone. No one has ever complained about this, but I am now told that this could be a consideration. However, Fort Frances has only two staff. If this is unsafe, that office would have to be closed and moved to Kenora. Picton has only 2.5 staff. Napanee has only three; so does Cayuga and so does Gore Bay. If all these small registry offices are deemed a problem, will they all be closed?

What I am saying here is that there really are no grand principles of one office per region or one office per sheriff's office or no working alone. There are only a series of local circumstances which must be looked at individually.

I am sorry to say there was in fact a serious failure in consultation here. In most decisions, the new government has shown itself very good at consulting and listening, but this announcement is a very strange exception. Even the Conservative government, when it was in full cutback mode in 1978, backed down on its identical decision after being forced to consult. In October 1981 the Conservatives looked at transferring Manvers to Lindsay and Cavan to Peterborough from Port Hope, but after consultation they cancelled that plan. Finally, when the Liberals took office, they had ministry staff consult the local bar and they reconfirmed the ministry's commitment to involve the Northumberland bar in any study of the possibility of closing these registry offices in advance of any decision being made.

In fact, for at least 13 years senior officials in the ministry have yearned to tidy up a situation which they do not fully understand, but politicians listening to local needs have in the past had the final say. If ministry staff told the government that no consultations with local people were needed before these announcements, the government was misled.

Ministry staff do hold regular meetings with a committee of the real property section of the Canadian Bar Association—Ontario, but the ministry staff failed to consult even that committee on these proposed closures. They have still failed to even apologize for the failure to consult or for breaking the ministry's commitment. In fact, the minister's office was under a misapprehension as to whether that committee had been consulted. It was not.

I submit this is yet another example of the civil service failing to realize that consulting a few people in Toronto may have been an acceptable standard of consultation under previous governments, but it is no longer acceptable to the new government. We are quite sure that the minister never meant to look arrogant, and yet here we are trying to catch up, two and a half months late.

Bill 208 is an important bill. Someone recently misled the minister into believing that the Port Hope office needs significant upgrading to comply with Bill 208. In fact, there are no Bill 208 problems at the Port Hope land registry office.

No improved customer service in Northumberland county can be put forward as a reason for closing these two registry offices, which give excellent service. Lawyers, municipal clerks, real estate agents and the general public all find the present locations good.

Probably the most annoying insult, as Mr Carter mentioned, to the intelligence of local lawyers is the stack of press releases, which are still sitting in our local registry office, proclaiming improved customer service. We are used to Brian Mulroney proclaiming improved Via Rail service while cutting it in half, but we really did expect something better from Marilyn Churley.

1130

There will be an economic impact of these decisions. Northumberland county has a development strategy developed locally and approved by the province. It calls for a balanced growth pattern, including both Port Hope and Colborne as growth centres. Without registry offices in Port Hope and Colborne, lawyers and land surveyors will be less likely to locate in those towns in the future.

There is time to have another look at Northumberland. The effective date announced for March 23, 1992 cannot in fact be met. Deeds cannot be moved to Peterborough until more space is available there. An addition to their county building could not possibly be ready for occupancy as early as March 1992.

The same point applies to Cobourg. The space analysis for a combined Northumberland land registry office has not even been finalized yet. We are not complaining that there have been no costs given to us for the Cobourg operation. The costs are not known yet; the ministry has not done the study yet. Once it has been done, the county will wish to take part in the procurement tender process. However, occupancy of the old county building would again not be possible by next March, perhaps not until next fall.

In the unlikely event that when these costs have been developed there are some real savings from these proposed closures, we would still submit that they should not be carried out at the cost of the public. Lawyers, municipalities, real estate agents and other users of the system have staff costs, mileage costs and long distance charges. All

these costs must be passed along to the lawyers' clients or to the taxpayers or to the other customers.

In conclusion, there are two points I would remind you of. First, the minister was misled by ministry staff into believing that this proposal had been properly costed and the necessary consultations had been done. As a result, we are here in the position of arguing against a decision that came out of the blue. This proposal should be put on hold until it has been fully costed and consultations with users then take place.

Second, the present land registry office locations have been unchanged for over 100 years, and on three previous examinations no good reason has been found to change them. We submit that they should stay.

Mr Banbury: I of course would echo my friend's presentation. I frankly would describe myself as being incensed by the lack of warning and absence of consultation. I have never met Ms Churley, but I think she could stand a lesson in manners in that it is my understanding that the president of our county law association has not as yet received an acknowledgement from her of his request for a meeting or for further information. A written acknowledgement does not take a lot, even if she defers action or clearly signals she does not plan to respond.

Following the posting of the notice in the registry office on May 7, 1991, which was the first word that any of us had on this, there was a meeting called at which Carol Kirsh attempted to explain the mechanics of how this would be changed and of course found herself bombarded by questions as to why this was being done.

At one point, as people pressed for figures as to what the savings would be for Northumberland, she said they would be insignificant and then immediately tried to take the words back. Our quest for further information, of course, has gone unanswered, and one can only conclude that what Ms Kirsh said, perhaps without thinking too thoroughly, was perhaps the truth of the matter. Again, we can only reinforce the request for an independent assessment. In the absence of any facts on the financing, we have to conclude that they do not have facts to substantiate it.

I would also point out to you that in that public meeting that was called to explain how all this was going to happen, Ms Kirsh explained how rent does not count because it is paid by another ministry, and a relative of a significant shareholder in the company that is the landlord in Cobourg blurted out a guffaw that the taxpayer gets it in the ear again.

That man went to the meeting really satisfied. He was quite happy that it would move to Cobourg. Relatives of his were going to have a good tenant and possibly a tenant wanting more space. He left the meeting quite incensed with the approach that was taken to the budgeting. If there were overall total savings, true savings, not just paper savings playing one ministry against the other or whether I pay it out of my brown wallet or my black wallet, we would have to deal with this on a little different basis.

It is not just three lawyers who are upset about this. Quite a number of municipalities in our area have their clerks or other employees go to this registry office to register things like housing development liens or discharges

and other things. I have here letters from the corporation of the town of Brighton and the township of Brighton, both strenuously objecting to this; the town of Campbellford and the village of Colborne, which is represented by its reeve; the township of Percy. Taken all told, there is a majority of the municipalities affected by the Colborne registry office, which I might say is the one I use the most.

Going back to the consultation, I think I am in that registry office at least three days a week in that I personally do my searches and close my deals, and if there was any attempt at consultation, it was pretty short and quick and the staff were told not to tell any of us, because I did not have a sniff.

Going on with the lawyers, Neil Burgess from Campbellford, Benjamin Ring from Brighton, Thomas Fleming from Trenton, all protesting that this is just unreasonable and inadequately thought out; Alex Winkler, another lawyer from Trenton; William Baker, who I thought wrote a rather good letter, and he of course finds fault with the facts in the announcement, which was incorrect. He says, "My suggestion for serious cost savings in the public service is that the minister fire the civil servant who is responsible for this stupidity" and use the savings to offset losses.

Mr Parsons, a lawyer from Frankford, again objecting; Thompson and Thompson, Daniel Thompson in Brighton; Campbell, Garrett, Weston and Sioui, a firm in Trenton. Mr Garrett would definitely have been here and was very upset about this, except he had a family commitment in North Bay that coincided with today. Gifford, Harris Surveying. Again, the two principals from that firm are in this room. One lives in Colborne. They just feel this is lunacy.

Real estate people: Bowes and Cocks had every member of their staff signed a letter that they objected. Similarly, Mincom real estate; S. Greetham real estate; Barry Simpson real estate, and another surveyor, P. A. Miller of Campbellford.

In addition to that, I have one letter from a private citizen who may have been in the registry office, but she just read some of the reports in the newspaper and made it her business to go to the meeting in Cobourg. She writes me a letter to say that this is crazy.

I would like to leave these letters with you. In becoming something of a lightning rod in our area for a protest, I ended up undertaking to deliver this correspondence, if I might do that now and keep myself honest.

The Chair: When the clerk returns we will have photocopies of all the letters made and the individual members of the committee will receive the whole group of letters and they could be part of the appendix.

1140

Mr Banbury: I appreciate that. I would like to file with you my letter that provoked this response.

The only other thing I would say is that a registry office is a very basic public service. It was recognized very early. Anyplace where the European arrived, we needed a secure place to record ownership of land and mortgages. It was one of the very early commitments of government to provide this. Having a convenient place to register a deed and check on such records is a basic necessity. We are in a

society where at least a majority of people aspire to owning a home. It may be harder to do in the city, but in our part of the world it is a very important thing to most people. I think you will find there are a lot of folks in Northumberland who feel rather strongly about this. We have a lot of farmers who bring their own discharges of mortgage from the Farm Credit Corp to the registry office, if they are so fortunate as to be able to pay it off. They are not going to be pleased at an extra hour's driving, or in the event they need information, have to pay long distance to telephone the registry office. You know, we cannot get there on provincially subsidized public transit. We do not have it.

Mr Carter: We have the reeve of Colborne and the mayor of Port Hope here. As well, a representative of the surveyors may wish to make a statement too.

The Chair: If they would just come forward and take seats and identify themselves for the record, we still have some time for short presentations.

Mr Chalmers: Don Chalmers, mayor of Port Hope.

Mr Rutherford: Walter Rutherford, the reeve of Colborne. Thank you for the opportunity of making a very short presentation. I prepared a brief and I discovered after listening to Mr Carter that many of my comments were the same as his. We obviously think along the same lines, but living in a small town, I guess that comes naturally.

I will not go over the loss. The loss of revenue and business with regard to our local stores and shops and businesses regarding the people who come to use the office has already been stated. One thing our council was quite concerned about was that a decision was made to close the office without any consultation with the village, our officials or the staff. We recognize that the land registry office is limited in size and with a very limited opportunity to expand on the present site. However, the village could certainly use a new and more easily accessible municipal office, and it had been hoped that a facility could be built that would accommodate the needs of the village and the land registry office. We regret that a decision was made before this possibility could be explored. So we would like to register our concern very sincerely that this closing has been announced, and we would like to have the opportunity to take part in some discussion regarding a facility in the area that would serve perhaps more than just the land registry office. We think something could be worked out along that line. That basically is the presentation.

Mr Chalmers: I am not going to say too much, because it is all going to be repeated all over again. I feel we were insulted, when somebody on the streets of Port Hope told me that our registry office was going to be closed. I went over to the registry office and there was a letter on the board saying, "This registry office is going to be closed." That is the first time anybody in Port Hope and, I know, myself or my council, had heard anything about the closure. I am sure you are going to get all the facts here today concerning Port Hope and Colborne.

The Chair: Thank you, Mr Mayor. Any further presentations?

Mr Carter: Yes, Mr Chairman. Mr Rob Harris, who is a surveyor working in the area and living in the area.

Mr Harris: How to make a brief brief. My name is Robert Harris. I am an Ontario land surveyor. My partner and I operate survey offices in Colborne, Trenton and Picton to serve the local community.

The crux of the matter is that we have a small group of senior civil servants and a minister who have omitted to seek public input. To me, that is the very worst thing they can do. I do not like to speak in public. I am scared and embarrassed, but public input is the key to our system and I sincerely hope that you, the legislative committee, can do something to stop this policy.

Mr Boehme: I would like to speak as the regional group chairman of the Kawartha-Haliburton District of Ontario Land Surveyors. My name is Kerry Boehme. I am an Ontario land surveyor. I would like to register the protest of all the surveyors in our area. We are probably the second-largest group to use the registry office facilities following lawyers. I know you have gone through all the costs and everything related with this through other presentations, but it is going to cost the people, our clients, more money. We are going to have to charge more. We have additional travelling time, if we have to travel. My practice is in Trenton. I live in Brighton. We are going to have to travel an additional 45 minutes, probably, for each visit to the registry office and, as the old saying goes, "Time is money," and that will have to be passed on.

I think it has already been proven or stated that the cost saving by closing the Colborne registry office will be nil or there may actually be an associated cost with that. That does not mention the cost to the average person who orders a survey and has a lawyer, a surveyor, and others whom he contracts to work for him. Those costs are going to have to be passed on to that client, and east Northumberland and Northumberland in general is not a money area. We have people who get by, and most people are working people and cannot afford additional costs. I, as a surveyor, am not going to absorb those costs myself. I will be forced to pass at least some of them on to the public.

Mr Carter: Mr Paul Smith would like to say a few words. He is the past president of our association and actually was the president at the time we made the presentation to Larry Grossman.

Mr Smith: I am not going to talk very long. I would like, of course, to say that I agree with what statements I have heard today. Unfortunately, we did not get the communication that we did in 1978, when we did bring a delegation. The consultation was done away with.

I really wanted to say, though, that I am a lawyer representing an area in the northeast corner of the county, and that this area does use the Colborne registry office almost exclusively because of its location, and that there is going to be an increased cost to the public in a couple of ways. One is the additional cost of travel and so on. The other is the turnaround time. At the present time we can handle mortgages at the Colborne registry office and release funds before 3 o'clock in the afternoon, and this allows there to be no loss to the consumer in so far as interest goes. Going to Cobourg, it is going to be a different matter. We just are

not going to be able to do it that fast and it is going to be another day's loss at that point.

There is also the consideration that the service we get in Colborne, I must say, is excellent. We have a personal service. They know the land. If we go to Cobourg we are going to be all of 40 miles away, and we cannot expect to obtain the same type of service. In fact, they will not know the same problems that we have up in our area, simply because they are at the other extreme southwest corner of the county.

The county of Northumberland is unique, I think, in that it lies along the edge of Lake Ontario. It is the area that was first populated, of course, when the Europeans came over, and it is an area that is going to increase in population. There is no doubt in my mind that the area lying east of Oshawa and running through to Kingston is going to be heavily populated in the years to come and there is going to be a need for a diversified registry system, rather than one that is united in one location at the south-east corner of that county.

These are considerations I would like you to consider, and I wanted to make sure you were aware that we in Campbellford are concerned about this proposal.

Mr Carter: Mr Doug Mann of Port Hope would like to say a few words.

1150

Mr Mann: As a lawyer who has practised in Port Hope for approximately 15 years, with deep roots in the area, I come to express my sincerity and, because I know all these other people here today, I know their sincerity, and the many other people with whom we have been talking over the last several months, their very, very sincere concern with respect to the proposed closure of the Port Hope and Colborne offices.

I, of course, share the thrust of the comments of my colleagues here today. I am not going to repeat the point they have made, but speaking to a number of the merchants and professional people in the town of Port Hope, they are very concerned with respect to the proposed closure. It simply means one less attraction, if you will, to the municipality. I would not suggest that it is as serious as closing a liquor store in a small community, but closing a government office is a very serious consideration because it does bring business into town. There could not be a worse economic time to be taking away an attraction such as the registry office, which is located in the core area. So there is this very real concern.

The registry office, by all reports, functions well. I have never heard anyone say it does not, and certainly Carol Kirsh did not indicate there were any problems when she came down to meet with local lawyers and other interested parties late one afternoon. They say there were not any complaints with respect to operation of the Port Hope office. So one aspect of it is, if it isn't broke, why fix it?

The second aspect that I particularly try to underscore is the supposed economic rationale for the closing. You have people here who are trained in various different professions; myself, an honours degree in economics from the University of Toronto as well as a law degree. There are a

lot of other people with various degrees and experiences, and while we have not been made privy to all the facts, I think it is fair to say that not one of us can conceive of how there can be an economic saving.

We can certainly see where there are going to be increased costs to the lawyers, to the surveyors, etc, and how there is going to be increased costs to the clients, and we very much feel that there are going to be increased costs to the government because, simply put, and I have to rely on what Carol Kirsh was able to tell us, they did not look at the whole story. One ministry looked at one aspect of this situation and came up with this proposal, and they did not look at the entire repercussions, as Mr Day and my other colleagues have mentioned, with respect to ownership versus rental of space, etc.

There were statistics mentioned at that meeting which were very suspect in the way they were generated, statistics as to the use of the registry office and to the proposed savings. I would hope that could be reviewed very carefully by members of this committee. Simply, it appears to us that it is going to cost far more to operate in one registry office in the county of Northumberland than to maintain the two very efficient offices we have now.

As I am sure you are all aware, people generally in this country, this province, have a lack of confidence, if you will, a disaffection, a disillusionment with government. The registry office really does go to the core of people's confidence in our whole government system, and it really is going to have a significant further undermining effect of these areas if this goes ahead on the basis that we have seen here so far and the evidence that has been available. Believe me, it is not a case of not-in-my-backyard syndrome. That is not what we are dealing with here from the people that have been voicing their objection to the proposed closings.

Mr Carter: I believe that is all of the people who have to make presentations. I am sure you will see that we are just ordinary people who are very concerned about our particular village and town, and we want to see the registry offices continue in them because they are part of our heritage and part of our lives.

Mr Abel: I would like to thank you for taking the time to express your concerns to the committee. However, you must realize that the government had to consider the overall picture. It was clearly a budgetary decision. I believe Larry Grossman in the Law Times had said that he agrees that the government should do this as a part of a serious strategy to deal with inefficiency, and that is exactly what we are trying to do. The bulk of the savings will come from salaries. I understand that the 14 registrars affected are being transferred to vacant positions, thus eliminating 14 positions and on average between \$40,000 to \$60,000 a year plus benefits. That is a substantial saving every year.

Another cost reduction would be in administration costs by approximately \$1 million. There are also leasehold improvements. Over a period of time it would accumulate to approximately \$8 million. These are all substantial savings.

Mr B. Murdoch: He is making a statement, Mr Chair.

Mr Carter: Is this a question?

The Chair: I have allowed members to make statements.

Mr Carter: I am sorry. I thought you said there were going to be questions.

The Chair: We are allowing latitude.

Mr Abel: There is a question coming. I am working up to that. I hope that that will clear up any misconceptions you have about savings and what not. Considering the fact that it is a budgetary decision, where would you gentlemen cut? Would you start with hospitals? Would you start with schools? I am curious to find out where you would start to cut.

Interjections.

Mr Abel: It is an intelligent question. It is a legitimate question. What do you mean, "Come on?"

Mr Carter: First of all, we have asked for information to substantiate the numbers that you have just reeled off to us, and we have received absolutely nothing. If you can provide us with the actual figures backing up the numbers you have given us, we might be able to answer your question. I am sure there are many places that savings can be made.

I know I visit several offices in Toronto over the year and often walk into the lobby and look into the office area of various ministries and see a number of people with bare desks sitting there with their arms folded or with the Globe and Mail crossword puzzle. You might want to start there. In any event, give us the figures so that we can answer your question. You have just given us the figures that Carol Kirsh gave us but no evidence of the justification for them. Mr Day, would you like to say anything?

Mr Day: I am not making a general point about every closure. It may be that there are some closures that would save money when you look at them. The point I am making is that when the costs are developed for Northumberland, which have not been developed yet by the ministry but will be shortly, I believe it will then be possible to look at those and see that there will be no money saved in Northumberland.

The second point I would make in answer to your question, which I agree is a very good question, is that the land registry office should be self-supporting. If there are going to be costs required to keep it going, then the correct answer is to raise the search fees, which are ridiculously low and have not been raised; they have in fact been lowered.

Mr Ferguson: I just want to compliment Mr Chalmers and Mr Rutherford, two municipal officials who appeared this morning who focused on the issue of the land registry office. Many municipal officials have appeared before this committee on this issue and have done a remarkable job dumping on all levels of government including this one and accusing us of not co-operating and not being there, of doing all sorts of negative things towards municipalities. As a former municipal elected official, I have an appreciation that it is very easy to use the province as a whipping boy and nobody gets too upset. It is like bashing the post office. Nobody gets too upset, it is a popular cause, and if you nod when you say it, you can get everybody nodding with you as well. I just want to compliment those two individuals for focusing on what is obviously an issue of importance to them, but talking about

that specific issue rather than bringing in all kinds of other baggage we heard earlier today.

1200

Mrs Fawcett: First of all, I want to say how pleased and proud I am that so many people from Northumberland have taken the time to come today and present the views of the people of Northumberland, because I think we are all starting to at least hear that it is unanimous that they feel a mistake has been made here and that we have to look at that.

In speaking to the registrar at the Colborne office, and in fact in seeing a letter she received from the ministry, it was my understanding that all of the staff would be placed somewhere. So really, I am just not sure about the figures on the savings as far as salaries will go, because it seemed to me that assurances were made that the staff would be placed.

However, another thing comes to mind: It is also my understanding, and maybe the people from Cobourg could help out here, that the Cobourg office is at capacity. Maybe all of you know that. In fact, in talking to the registrar at the Cobourg office, there is no more room there, and all of a sudden we are going to put two more offices into that place. Obviously, you are going to have to expand, and expansion means money.

I just cannot see where the suggested savings are in any way, shape or form. Would there be a comment here from any of you?

Mr Carter: My understanding too is that the Cobourg office is at capacity, although I understand they have been looking at the facilities available. I do not know what the ultimate result of that study has been, but just being there physically and the space available behind the counter, for example, for the extra filing cabinets that would be required and the furniture and one thing and another—it does not appear to me the facilities are available and they will therefore have to rent more facilities, I would assume. I believe Mr Day commented on that earlier.

Mrs Fawcett: Right. I think we have to keep in mind too that the Colborne office does more transactions than the Cobourg office.

Mr Carter: Yes. It is a larger office than Cobourg right now in registrations, so if Cobourg is as big as it is now to handle what it handles, then it would have to be at least twice as big, if there is such a rule that applies to space, and I am not sure there is.

Mrs Fawcett: I think someone alluded to it also. Is that it? Is that all the time I have? Anyway, I thank you so much.

Mr Runciman: With respect to the comments made by the government member, I guess he once again emphasized that this was a budgetary decision and asked you for other options. I think that is frustrating from an opposition member's point of view, in the sense that he outlined it as though there is no question in his mind, despite your testimony and testimony we have heard over the last day or so, excellent testimony raising some real questions about whether there are any cost savings, yet we hear the government member say, "Yes, it's there." There is no question mark in his mind at all, apparently. I think that is one of the reasons the situation in the House has deteriorated on a

day-to-day basis, because of our frustration that, "Despite the facts, this is our position."

Hopefully that is going to change by the end of the day, because I think one of your witnesses suggested here that if indeed there were real cost savings your approach would be different. I think the approach of the opposition would be significantly different if it was clear that there were cost savings.

I would really like to hear your views with respect to the suggestion made earlier about calling in the Provincial Auditor under the Audit Act and having an objective assessment of the recommendation of the ministry. If there are real cost savings to be achieved, indeed the opposition members are going to have to take a different position, as you are. I would think that the government members, if they indeed believe strongly in the case their minister has put forward, should have no reservations about it whatsoever. I would like to hear your views on that recommendation.

Mr Carter: I believe that was the recommendation from Mr Fallis, who preceded us. As I stated at the very start, we agree with that, if that is the only way we can get the figures. We have not been able to get the information any other way and I assume the Provincial Auditor would be able to do that. So we would be very much in favour of such an audit, I guess, and we would look forward to the results, because we feel confident they would show there will be no cost savings in closing our registry offices.

The Chair: I want to thank the committee members and the presenters.

Mr Brown: Before we recess for lunch, I understand the ministry is coming before us this afternoon to make a presentation. I am just wondering if Mr Daniels can confirm that Ms Kirsh will be here with you.

The Chair: We cannot have a conversation unless it is officially recorded. Mr Daniels, could you please come forward and take a seat by one of the mikes. That way we can get it on Hansard.

Mr Brown: Will Ms Kirsh be appearing before the committee?

Mr Daniels: No, Mr Brown, it will be myself. I am boss. I am responsible for the registration division.

Mr Brown: My interest here is that Ms Kirsh's name has been mentioned quite a bit in the last couple of days and perhaps she would like an opportunity to clarify some of the statements personally that have been made.

Mr Daniels: I think we will represent Carol's interests.

The Chair: Is it the wish of the committee that Carol Kirsh be here?

Mr Mammoliti: I do not think it is necessary, myself. You are responsible for her. I cannot see the logic in—

Mr Daniels: The meeting is in Cambridge.

The Chair: I am going to have to ask the members what their wish is, Mr Daniels. We have about three opinions on the floor.

Mr B. Murdoch: My question would be, is it possible for her to be here? Is there any reason why she cannot be here?

Mr Daniels: First of all, I am responsible for what Carol does and says, and the decisions she makes go through me. The decisions around recommending budget constraints, etc, will come through me. We did joint presentations to the minister. I have been with her in Glencoe—

Mr B. Murdoch: I asked a simple question. I do not need a statement. Is it possible she could be here?

The Chair: Mr Daniels, the question from Mr Murdoch was as to whether or not it would be possible for her to be here.

Mr Daniels: No, I think the time allotted is for my presentation and my response.

Mr B. Murdoch: He is worse than the government. He cannot answer a question. Jeez. It is yes or no.

Mr Daniels: We say no.

Interjections.

The Chair: Order, please. This is a sensitive matter and we are going to deal with it properly. Mr Murdoch, are you finished?

Mr B. Murdoch: Yes.

Mr Brown: I am uncomfortable with that response. If she is available, and I know this is short notice, it may be that the committee has some things it may wish to discuss with her, as her name has been one we have heard most often representing the ministry's position from the groups that have been before us in the last couple of days. I am prepared to make a motion asking that she come, provided she is available. I do not want to be unreasonable about this, but it seems to me we have heard her name a considerable number of times.

The Chair: If you want to make a motion, we can make the motion and then we can debate the motion. Is that all right with the committee members? I know there is going to be some discussion. We may as well have it surrounding the motion, if it is going to be made. Is there consensus to handle the matter that way?

Mr Mammoliti: Not on our part.

The Chair: Not on your part? All right, that is fine. We will have—

Mr B. Murdoch: I want to know what happened to, "We're going to work with everybody." I have heard that crap all the way for nine months now. Where is that? Where is that big thing, "We're going to work with you guys"?

The Chair: Okay, we are running a list. We have Mr Ferguson, Mr Abel, Mr Mammoliti. We have a notice of motion from Mr Brown.

Mr Ferguson: Mr Chair, we have a ministry official who is going to appear this afternoon. This is the second time Mr Murdoch has pulled this sort of stunt. I mean, he comes in here yesterday morning, we have delegations backed up, and he delays the committee proceedings for well over an hour while he brings a motion at the eleventh hour. Quite frankly, I do not think that is particularly fair. If you want to talk about co-operation, then I would suggest the co-operation ought to start from his side of the room and not roll in with last-second motions.

Mr B. Murdoch: You had better figure out who made the motion.

Mr Ferguson: The person who has been named here during the proceedings most of the time is the minister, and she cannot appear. As you know, she is in Labrador with her father, who is extremely ill at the moment.

I do not know why you would want to bring in an underling from the division when we have her boss right here. He is going to present the ministry's side and I think he will do a quite capable job. I do not see the rationale in trying to bring in somebody from the front line. The next thing you will want to be doing is requesting individuals from each registry office to appear.

Mr Jordan: Why do you not want her to appear?

Mr Ferguson: Because we have the utmost confidence in this individual and we think he will do an exceptional job. In fact, we think he is going to be able to answer all of Mr Murdoch's questions, and he has agreed to stay after the proceedings if Mr Murdoch does not have time to ask all the questions he wants. I do not know what else you would expect from the government side. So we are going to have a vote and we are going to ask for an adjournment. We can run through the lunch hour. If you want to play games, that is fine; we will play games. We will run it out through the lunch hour and we will come back at 2. That is fine with us.

Mr Abel: I think Mr Ferguson has quite eloquently touched on the points I was going to bring up.

Mr Runciman: Loudly, if not eloquently.

Mr Mammoliti: I am having a little bit of trouble with why they want the individual here. I am a little concerned that the opposition is trying to convert this process into a court proceeding and perhaps put this person on trial. Having the superior here, having the individual who is ultimately responsible for this person and the decisions, should be enough for this committee.

I would suggest to the committee that instead of stalling, instead of wasting time and instead of the tactics that have been consistently brought up here the past couple of days, we deal with this item rationally. I suggest that we act as adults, as opposed to arguing and raising our voices. It is ultimately our responsibility as a committee to deal with this as human beings, and I would suggest that in order to expedite things, perhaps we do feel comfortable that you can answer the questions this afternoon, if there are any. My side certainly feels comfortable and I just wanted to relay that thought.

Mr Brown: In view of the fact that I can count, and therefore this motion will not carry, I will withdraw the motion, if it was ever actually made. I thought it might be helpful to the committee, I thought it might be informative and I thought perhaps Ms Kirsh might appreciate the opportunity also. But given all that and the fact that I can count, I will not make that motion or will withdraw it.

The Chair: Unless there are any further comments, the committee stands adjourned until 2 pm this afternoon.

The committee recessed at 1214.

AFTERNOON SITTING

The committee resumed at 1406.

KIMBERLEY THOMPSON, JANE BREWER,
BRENDA BILODEAU, DAVID BOND,
GEORGE INGRAM

The Chair: The standing committee on general government is called to order. We are continuing our hearings into the matter of the government of Ontario's proposed closing of 14 registry offices. These hearings are being conducted under standing order 123, by which 12 full hours have been allocated for hearings.

The first group of presenters for the afternoon include Mayor Jane Brewer, David Bond, Kimberley Thompson, and two others, George Ingram and Brenda Bilodeau. I will call all the presenters forward, please, and ask one of them to serve as chairperson and make sure that everyone gets an opportunity to speak to the committee. You have been allocated 30 minutes by the committee. You can use all of that time on your presentation or reserve some time for questions and answers. I would like all the presenters to identify themselves and whom they are representing or what position they may hold for the Hansard record.

Ms Thompson: I am Kimberley Thompson, director of the Downtown Cambridge Business Improvement Association. I am here on behalf of 250 businesses located in the core area.

We would like to thank you for this opportunity to allow us to voice our concerns and the specific circumstances surrounding the Cambridge registry office.

I would like to introduce the others who are here with me today. On my right, George Ingram, president of the Waterloo Law Association; Mayor Jane Brewer of the city of Cambridge; Brenda Bilodeau, president of the Cambridge Real Estate Board; and David Bond, president of the Shades Mill Law Association. We have Bill Barlow, former MPP for the area, with us today as well. The people here today represent various self-interest groups but also the 90,000 Cambridge citizens.

The Cambridge land registry office was created from the Kitchener registry office in 1971 because of the high volume of transactions at that time, numbering about 6,000. Since then, Cambridge has experienced phenomenal growth, and in the last two years there were approximately 31,000 and 25,000 transactions respectively.

The region of Waterloo has a large population with three major centres: Kitchener, Waterloo and Cambridge being the smallest of the three. The city of Cambridge itself was created by an amalgamation of the cities of Galt, Preston and Hespeler in 1973, and ever since we have been struggling to have an identity of our own, particularly a separate identity from that of Kitchener, which is a difficult situation considering it is less than 30 kilometres away. We are constantly made to feel inferior to these two cities and overshadowed by them and we have lost a lot of services to that area since regionalization. We will continue to fight for what services remain.

As a business association, we are concerned about the loss of yet another service. The provincial and municipal

governments, as well as private investment, have spent literally millions of dollars in core revitalization. The closure of the registry office will not only result in a profound effect on the businesses located in the core and throughout the city, but will also cost the citizens of Cambridge more money for any transaction associated with the registry office. The closure will also signal other governments of all levels and quasi-government offices that it is all right to relocate to Kitchener, all this without any consultation with the people affected of the city of Cambridge.

The effort to reduce costs is commendable. However, after meeting with the assistant deputy minister, Art Daniels, and the director of registrations, Carol Kirsh, I still do not understand what costs are being saved by closing the Cambridge office. If \$1 million is being saved by closing all 14 offices, what part of this is saved by the Cambridge closing alone?

Permanent ministry staff are not being laid off, I understand, although I am sure many will be forced to resign if they must commute great distances. So again I ask, how much is being saved by closing a very busy, and according to the ministry, a profitable office?

Our city has worked very hard to attract business, industry and citizens to the area. We have experienced significant growth and will continue to do so. However, let's not make it more expensive and more inconvenient for residents and businesses alike to relocate in the city of Cambridge by moving the registry office to Kitchener.

Ms Brewer: The city of Cambridge is a regular user of our local registry office. City staff in a number of departments, clerks, treasury, engineering, planning and fire departments, all utilize the Cambridge facility. With the exception of the fire department staff, the registry office is within walking distance of the city's office in Cambridge Place.

The following comments are from Mr Vern Copp, who is the solicitor for the city of Cambridge:

"As solicitors for the city, we should advise you that the proposed closing of the Cambridge registry office will have an adverse impact on the cost and promptness of service which we are able to provide. On behalf of the city we search and register documents on many, many matters, including tax arrears, lane and road closings, easements, site plan agreements, as well as property acquisitions and sales. Our clerk attends at the registry office specifically on city matters several times a week. To travel to Kitchener to do this work will involve additional time and mileage costs as well as probably some delays."

If the south Waterloo registry office is consolidated with the registry division in Kitchener, we estimate that an additional hour and a half of staff time per visit will be required for travelling to Kitchener. Also, the city will then incur additional expenses for mileage to the Kitchener registry office and for parking. We conservatively estimate the cost per visit at \$40 each, and over the course of the year, the cost to the corporation would easily be in excess of \$25,000. This figure of \$25,000 does not include the additional cost of legal fees.

It should be noted that the region of Waterloo has forecast the city of Cambridge's population as growing from 90,000 persons in 1991 to 124,000-plus by the year 2011, and households will grow from 31,000-plus to 47,000-plus in the same period. The rate of population and household growth strongly suggests there will be a continued high demand for local registry office services.

The location of the land registry office is described in our official plan as being in the city's centre. This plan states this area shall be developed as the city's central business district, recognizing that there are three cores because of the three communities we formerly represented. In that core there are a number of services listed in the brief that are provided as part of that official plan. Millions of dollars have been spent by the Grand River Conservation Authority and the city of Cambridge on flood control through the city centre and in beautifying the area.

Private business that has been attracted to this area includes lawyers, professional planners, real estate offices, and they will seriously have to consider remaining where they are located. If they remain, the cost to their clients will be higher. These additional costs will be passed on or these companies may consider moving their businesses to a location closer to the registry office in Kitchener.

Heritage Cambridge will be working closely with our local architectural conservation advisory committee and has agreed to help with the inventory of significant heritage buildings throughout our city. Today, the land registry is easily accessible to volunteers who will be doing the work. The proposed move to Kitchener will make it much more difficult, because many people will not be willing to drive or take a bus at a cost to them to do the work.

Two things that have appalled me about this issue are the lack of consultation with the cities affected before the decision was made. This government said time after time, "There will be consultation." There have been a number of requests for additional information regarding the operation in Kitchener, but no response other than a letter from the minister saying that the cost for transactions in Cambridge are \$11.08, and in Kitchener \$9.48. What we are asking is, is this office losing money?

Carol Kirsh, the branch director for the ministry, said at an information meeting held in Cambridge last Thursday evening, July 18, they could not release how much money will be saved by closing the Cambridge office, as the figure is confidential under the province's Freedom of Information and Protection of Privacy Act. If that answer had been given to us two months ago, we might have made application for the information, and I hope that in your deliberations you will give some thought to the cost of operations and cost benefits to our local taxpayers. I thank you for your kindness.

Ms Bilodeau: My name is Brenda Bilodeau. I am the president of the Real Estate Board of Cambridge. I am here representing not only the 350 members of the Real Estate Board of Cambridge but also our clients, and on behalf of the city as well.

We are not the main users of the registry office. However, it is directly due to real estate transactions we handle that the registry office is used through the lawyers' title

searches, etc. Ours is not a financial issue, but it is a financial issue for our purchasers and our vendors. It is also an inconvenience issue for the same purchasers and vendors—I will get into that a little bit later—and another loss of our city's quickly growing identity or losing identity, I am not sure which any more.

We are very concerned about the lack of consultation to the users of the registry system when this decision came down. We are very concerned about the extra costs involved to the public in the form of legal fees and surveys and possibly appraisals that are likely to appear as a result of our people having to go to the city of Kitchener, to the registry office there.

We are concerned that the registry office was moved from Kitchener to Cambridge many years ago, and that all of a sudden it is going back. We are concerned with the fact that there are going to be withdrawals from our lending institutions' trust accounts. Trust accounts will be moved to the city of Kitchener because it is almost impossible to have them locally. It is just a time factor there.

We are concerned with public inconvenience on closing transactions. There will probably be long delays, particularly at month's end, resulting in late key exchanges, rental truck cost increases, all these things that may seem small but will add up to the public inconvenience and also the long lineups that will no doubt happen at the registry office in Kitchener.

Apart and separate from the fact that our city of Cambridge is trying to retain its own identity and not become a portion of Kitchener-Waterloo, I want you to understand that we do not even have a public transportation system between the cities, so it is not as if you can hop on a bus and away you go. You have to have a car to do this. We have our own separate real estate board. I seem to get the feeling from the ministry that it thinks Kitchener-Waterloo and Cambridge are all the same, that we use the same real estate board, the same lawyers, the same whatever. It is not the case. We are a separate identity and we ask that the decision be reconsidered. I thank you for your time.

1420

Mr Bond: My name is David Bond. I practise law in Cambridge. I am the president of the Shades Mill Law Association. Shades Mill Law Association, for your information, is a group of Cambridge lawyers, Shades Mill being an old name for the Cambridge area. That has been retained in the name of the law association. There are about 90 to 100 lawyers involved, but I want to stress to you today that this is not a lawyer's issue. We have heard a mention of legal fees. Legal fees are going to go up, yes, but that is not the main issue here.

The main issue, I think, that you have to take with you and consider is what you have heard already in these hearings, and that is the lack of prior consultation with the users of the system. The users of the system are not just the lawyers. We have heard from Mayor Brewer that the city uses the registry system. The local architectural body, Heritage Cambridge, uses the registry system actively.

So the lack of prior consultation is certainly one of the issues that in my view should come out of these hearings

and be something that should prompt you to recommend to the minister that she reconsider this entire decision. I will tell you in a few moments why I also think that in her announcement on May 7, some of the items that she recommended as being improvements to the system are simply not the case for Cambridge.

Kimberley Thompson is correct that the history of the registry office is that it was carved out of the Kitchener registry office back in the early 1970s, when there were 6,000 registrations. There are now approximately 31,000 registrations. In the area of Cambridge, those three cities that were amalgamated, the number of individuals living in those three cities is going to be over 100,000 in a few years' time. It is only, I think you have all heard, with the onset of the Toyota factory that Cambridge is a growing and vibrant area. Now we are being asked to simply accept the fact that without prior consultation, our registry office, which is the centre of the community—and not just the legal community, but the community itself—should be moved to Kitchener or merged with Kitchener.

I gather from our meeting with Art Daniels and Carol Kirsh a couple of weeks ago that one of the primary and driving reasons for this, in the minister's mind, was to merge, wherever there were two registry offices in one county, into the one, and where there is a sheriff's office, to merge it into that one particular office. In my view, that was a driving force in the minds of the ministry, and it completely forgets the other human factors involved in making a decision of that nature.

A good reason, I suppose, for making a decision to merge services and to cut costs would be if the costs were tremendous. I submit to you that the costs that are going to be saved by this decision are not tremendous. But the point is that if you operate from that principle of one county having one registry office and one sheriff, you are simply forgetting the human factors involved in the closing of a business in a community. I submit to you that the registry office is a business.

There are people like Herb Trim, a local freelance title searcher who spoke at the meeting with Art Daniels and Carol Kirsh. He is 51 years of age. He has been title searching in that Cambridge office for many years. He says he is not going to be able to continue now. He has no transportation to get to Kitchener to start searching titles in the Kitchener area. There are people like Jim Collishaw, a planner who set up his business for planning close to the registry office, only a few blocks away. He advises small- and medium-sized businesses. He is going to be affected by the closing. I mention only two of the numerous people who are affected by the closing of this registry office.

I want to mention fees. There are planners whose fees are going to go up, there are surveyors, there are appraisers and, of course, there are lawyers. The fees will go up because those individuals are charging based on their time and effort in doing something. Inevitably, the time in travelling approximately one hour return to Kitchener is going to create additional costs. But let's presume that competition will result in the fees not going up. Let's presume that everybody says, "Let's all go to Kitchener." There is still going to be the cost of disbursements of mileage to travel

to the Kitchener registry office. I submit to you that those particular costs are going to be passed on and will be passed on as disbursements to the client of the surveyor, of the appraiser, of the planner and also of the lawyer.

I understand that a meeting was supposed to be scheduled later in May in Guelph to start to inform people about what the ministry had decided. Instead, rather than holding that meeting or holding other meetings, the minister decided on May 7 to stand up in the Legislature and make her announcement. Her announcement talked about the taxpayers obviously, and the savings that would result. She used the figure of \$1 million. That is spread across the 14 offices, as you know.

We have not been able, as you have heard this afternoon from Mayor Brewer, to obtain information on the Cambridge office itself to show that it is in fact a viable operation, having approximately 30,000 registrations.

There is a suggestion in the minister's announcement that the high level of customer service now provided at the land registry offices will be maintained, and in many cases improved. I suggest to you that the services to the customer are not going to be improved in any way as a result of the closing of the Cambridge registry office. In fact, it will create additional time in the closing of real estate transactions, in terms of the travelling. As I say, it is a one-hour return from Kitchener. I am also aware that other registry offices on that list of 14 have even greater amounts of time spent in getting to their particular offices.

The minister made a statement in her announcement that the larger, integrated facilities will be more up to date, generally offering upgraded information processing systems. The Cambridge office is a very up-to-date facility. As I understand it, it also had been slated to have a new Polaris system put in on a trial basis. That was to have been done within the next 12 months, that is, 12 months from about last April, prior to the announcement. There was the suggestion that Cambridge would be a good spot to start the Polaris system for our particular area. It has very up-to-date facilities. It has not the antiquated facilities that the minister referred to in her announcement on May 7.

I do not understand how she can make a comment about customer service, not having consulted with the users of the system. The "customers," if you can call them that, the individuals who have their lawyers close real estate transactions for them, do not see the registry office in many cases, but their lawyers do, and their appraisers and their surveyors. Other individuals in the community, like the city and Heritage Cambridge, all see it. There was no consultation whatsoever. That question was asked of Mr Daniels at the meeting two weeks ago, and he stated that no, there was no prior consultation whatsoever.

In answer to a question concerning whether the human factors were taken into account in making the decision—he was talking about the figures indicating that they could save money based on the closing of it—when asked about the human factors, I think both Carol Kirsh and Mr Daniels answered that they were able to maintain the same level of employees within the registry office. Really, the human factors that civil servants in the ministry are talking about are human factors within their own ministry. It is not

the factor of the person on the street who may be affected by that. That is why we are glad to have an opportunity to speak to you here today at the hearing. I suggest to you that this should be taken into account when making a decision of this nature. We respect the ministry for attempting to maintain job levels, and that is an important issue, but I also ask you to consider that there may be some additional savings for the ministry through its own staff cuts in some of the offices. It may be that some of these offices that are being proposed to be closed could simply have staff cut somewhat, and that would constitute a saving.

1430

Mr Ingram: My name is George Ingram. I have been a practising lawyer for approximately 22 years in the province. I have my practice in the city of Cambridge and I am president of the Waterloo County Law Association, which is an association of about 400 lawyers in the entire regional municipality of Waterloo, encompassing Kitchener, Waterloo and, in the southern end of the county, Cambridge.

We applaud the effort of the government to make the administration of government more cost-effective and efficient. However, where there are important principles involved and serious concerns expressed, I think it is mandatory that the government do some reconsidering and reconsider the decision the minister has made.

The Waterloo law association is not only concerned with the effect that such a decision will have on the users of the system, the increased cost to the general public for the services rendered relating to any land investigations, but also, and more important, I underline, with the dangerous principles that appear to be emerging in this case. I am going to focus a spotlight on certain procedural things that have occurred that I think all members of this committee should be aware of.

As you know, lawyers are concerned with legal principles. Particularly in this case, there is an agonizing concern that is being focused on, which is that there is an appearance of a denial of natural justice. Any lawyers on this committee will recognize the decision that was made in the last century by a well-known English judge who said that it is not that justice be done, but that it be perceived to be done. That is an issue I want to talk about today, the perception in the eyes of the public and of your electorate that this decision is having.

There is an appearance that the bureaucracy is leading the government, that on this particular issue at least it is exercising an undue and inappropriate influence, and that certain undemocratic measures are surfacing, being evidenced by a lack of accountability, an unresponsiveness to legislative concerns—legitimate concerns—and a supposed refusal to reconsider its decision, all giving an impression that there is an arrogance of political power. I say this with some reluctance, but I am saying it seriously. This has been expressed to me on many, many occasions, not only by my fellow brothers in law in the area but also by many people in the general constituency.

There are four concerns which I have indicated in my paper. Because of lack of time, I am not going to read

through my paper; however, I am going to highlight some of these concerns.

First of all, the lack of prior consultation has been addressed by the other speakers. There is a growing concern, as I say, that the bureaucracy may be leading the government on this issue. There is a self-admitted statement by Mr Daniels at the recent public meeting in the city hall chambers referred to earlier that his department did not consult with members of the public. The same concern has been expressed by members of the staff in the registry office in our area. They were shocked when they heard this thing, which came out on the same day as the press report. The union representative has also expressed concern.

There has also been evidence of improper and inefficient research by the bureaucracy in making the recommendation to the minister, from my investigations, including a personal discussion of the issue about one week after the decision was made on May 7. I had a talk in the Cambridge registry office with Carol Kirsh. She admitted to me that the decision was made without knowledge of the population involved, of the number of transactions for the fiscal period ending March 31, and she was not able to give information as to the costs. She indicated that this information would be available later and sent to me. I did get it about a month later, at the end of June, and some of the relevant particulars are on page 2 of my paper. From that, you will see that the volume of transactions exceeds 25,000. The branch revenue is millions over the branch allocation. Clearly it is a profitable operation. The concern in our area is, why close something that is working?

The concern I wanted to address particularly in the time I have available is the matter of perceptions, and what is affecting the legal profession in our area. There seems to be, in the facts of this situation, an undemocratic political system emerging. I will give you four indications of this.

From our experience in dealing with the government, the bureaucracy and the way the decision was made, it appears that, first, the government was guided by insufficient research; second, there is a bureaucracy which does not consult with the interested parties affected by its recommendation before the recommendation is made to the minister; third, there is a minister who is difficult to approach and obtain an audience with; and fourth, there is a government which gives undue weight to political theory rather than the practical reality of the situation. Some of these have been addressed by other speakers on this panel.

When comparing the presumed cost saving of the Cambridge registry office closing with the overall budget of the Ministry of Consumer and Commercial Relations, the result is akin to trying to hit a fly with a scud missile. We urge the minister to reconsider her decision, to change it, to exempt Cambridge from the list of closures. That is not an expression of saving face or of weakness, but we suggest it is an element of humility and a positive sign that this is a government that does listen and reconsiders. To refuse to do so, however, would encourage the general electorate in our area—and I am serious about this—to change its perception of the NDP government and characterize this as a new, destructive program.

The Chair: I will allow one question per party, as time has more or less run out.

Mr Runciman: I am interested in a couple of things which I hope I can incorporate in one question.

The last witness was talking about the number of transactions, and we had a rather convoluted definition of transactions earlier today. When you reached these conclusions in terms of transactions, were you using the ministry definition of "transaction"?

I am also interested in your comments with respect to Ms Kirsh, that she admitted she did not have the information. We have heard testimony earlier today and perhaps yesterday—I was not here yesterday—that she has been quite forthcoming in indicating to a variety of concerned individuals that perhaps the ministry did not do the necessary research to reach the conclusion it reached. That may explain the reluctance of her boss to have her appear here today. I do not know, but in any event I thought I would put that on the record.

I would like to know what you used with respect to your definition of transactions.

Mr Ingram: Those figures were taken from a letter I received, dated June 26th, from Carol Kirsh's department. It is in response to my previous comment to her, and I believe this is also in the packet you have.

Mr Runciman: It is in conformity with the ministry definition.

Mr Ingram: She did not define the word "transaction" as to whether it is the number of registrations over the counter or whether it is the number of contacts the staff had with members of the public, some of whom are not lawyers. We will have to yield to the department's definition of transactions. My figures came from this letter from the department.

Mrs Fawcett: Thank you very much for your presentation. Just to be clear, because I know the word "consultation" has been used so much, what would you have liked to have seen happen by way of consultation before that announcement? I think we are going to hear from the ministry what it believes it has done as far as consultation goes, and I think it would be nice to have on the record just what you would have expected.

Ms Brewer: We were told that there normally are not consultations before this kind of decision is made, that when you are dealing with finances, you deal with finances. We would very much like to have received more than a letter from the minister saying the office is going to be closed. Surely there was a process that could have been set up to involve us before the decision was made and not after. In addition to that, it would have been nice to have had the figures for the cost of the operation, and that could have been part of that process.

1440

Mr Ferguson: I would like to thank you for taking the opportunity to wend your way down the 401 and appear before the committee this afternoon. I am glad you are here, because you are one of the few groups to have acknowledged and commended the ministry for its attempt to

reduce the operating and capital costs of its budget. That does not happen often.

Mr Villeneuve: Not to make blind decisions with no information.

Mr Ferguson: We do not get a lot of commendation. We get a lot of people who just criticize us. In fact, Mr Villeneuve, this government, on almost a daily basis, is being urged by the leader of the Progressive Conservative Party to reduce taxes and cut expenditures.

Mr Villeneuve: Not to make blind decisions with no information.

Mr Ferguson: It is at his urging in part that we are following this course of action. The real difficulty I have—

Mr Mammoliti: On a point of order, Mr Chairman: This is out-and-out rude. We do not interrupt. Have a little compassion. Be quiet.

Mr Ferguson: One of the real difficulties is that not only your brief but almost every delegation that has appeared on this issue over the last two days has suggested: "We've got good reasons for keeping our office open. You can look at the other offices, but at least keep our office open because we think we've got good, solid reasons why our office ought not to be amalgamated with somebody else's."

I want to let you know that the people in Tobermory have to drive 200 miles to the town of Walkerton to access the registry office. Although it is not right around the corner and although it is not the most convenient, somehow the system works. If, by the grace of God, the registry in Cambridge is amalgamated with Kitchener, are you telling me that under no circumstances will the system work? Will the city of Cambridge come to a grinding halt?

Ms Brewer: Mr Ferguson, you have not changed since you sat on regional council. All we are saying is that in our estimation this office is not losing money and that there is an additional cost not only to the city but to all these other people who are here today. We can recognize that there are other areas where they will have to travel further, but we are suggesting to you and to this committee that this is a viable operation. It is a new building. I have been there three times since the group met in Cambridge a couple of weeks ago. Each time there were 10 to 12 people in that facility, and there were some people there who are not going to be able to get to Kitchener. They do not have cars. As has been said, the transportation is not regional. They can take a coach bus up there three times a day, and there is a cost for them to do that. If this is a viable operation and they are making money, then why are you closing it? The only reason from the ministry's letter was the fact that the sheriff is in Kitchener. That is the reason.

The Chair: I want to thank the delegation for making its presentation to us today. Unfortunately, time has expired for this portion of our hearings.

MINISTRY OF CONSUMER AND COMMERCIAL RELATIONS

The Chair: The committee had decided earlier on that we would also hear from staff. We set aside approximately two hours to hear from and to question Mr Art Daniels, assistant deputy minister, registration division of the Ministry

of Consumer and Commercial Relations. I would like to call Mr Daniels and any other staff who are going to join him to please come forward. I assume what we are going to do is allow Mr Daniels to make some kind of presentation and then we will divide equally whatever time is left for questions and answers. There may be an occasion during Mr Daniels's presentation when individual members have questions. We will allow those questions to be put as long as it does not turn into a long dialogue and as long as Mr Daniels will be able to make an entire presentation.

Mr Runciman: On a point of order, Mr Chairman: I am wondering if it would be appropriate for Mr Daniels to indicate before he begins how long his opening statement is going to be, because I think there are some of us on this side of the room who are concerned that we have appropriate time for questions.

The Chair: It is now 2:45 and our 12 hours expire at 6:15. We have approximately three and a half hours in total, not only to hear from Mr Daniels but to give direction to the research officer as to what we would like in the report, so it is going to have to be a consensus by committee on how we proceed. If there is no objection to the way I outlined and if we can hear from Mr Daniels how long he is going to be—

Mr Daniels: I would say about 20 minutes.

The Chair: Mr Daniels, we will turn the floor over to you.

Mr Daniels: I am pleased to be here today to explain the background and analysis which led to the cabinet decision to integrate land registration divisions. Before I go into the specifics, I would like to comment on some of the misconceptions surrounding the integration plan.

Misconception 1: The land registry offices are run at a profit and it does not make sense to close an office when it is generating more revenue than it costs to keep the office open. I think we have heard that quite a bit. I have heard this myself, and I sat through the two days of hearings. I have attended local meetings in Cambridge, Glencoe and at Guelph, with Arthur and Durham. Again, this question of revenue and expenditures come up.

I have been involved in government for 25 years, and expenditures are quite separate from revenue. The amount of money ministry generates in revenue it does not retain. This revenue is transferred to the consolidated revenue fund to be disposed of by the government as it chooses.

Of the ministries I have worked in, two do not generate any revenue at all and rely on other ministries to generate revenue for them. I worked in the Ministry of Correctional Services and the Ministry of Community and Social Services. Those ministries rely on other ministries, such as the Ministry of Revenue, through tax generation, or through a ministry like CCR, which does generate a number of places of revenue. It generates revenue through its land systems; it generates revenue through its personal property; it generates revenue in its companies branch; it generates revenue through its agencies, that is, the Liquor Licence Board of Ontario, the Ontario Racing Commission. It is a major revenue-generating ministry, and it retains none of that revenue. Each year it must go forward and argue for its expenditures, and the expenditures are

salary, wages, benefits and operating costs. This is what we are asked to manage. This is what we are asked to control our costs on. There is no connection between the amount of revenue we collect and the expenditures we lay out.

1450

As I travel across Ontario people ask us to raise the fee. To raise the fees would generate enough revenue to leave the office open. The fees do not come back to the ministry. It is not a user fee. It is a fee that relates to general revenues.

The ministry, as I said earlier, is trying to manage its expenditures and at the same time generate sufficient revenue for the government to utilize for other important purposes. In the ministries I worked in, like the Ministry of Community and Social Services, it makes good sense to take the revenue that we generate through fees in the Ministry of Consumer and Commercial Relations, fees that the land registry system generates. In the letter that we sent Mr Ingram, we showed him that the real property offices do generate substantial extra revenues. This extra revenue goes to the Treasurer of Ontario and is applied.

Let me just get that figure exactly. In 1990, the branch generated—and this is the real property branch—revenues of \$57 million and our operating costs were \$38 million. It is not a two-for-one but it is approaching a double ratio. It is unlikely that any of our offices, because of the revenue structure, are not profit centres in a P and L statement, but that is not how we operate in government. We operate revenue separate from expenditures.

I am asked, as a manager, and have been in my years, to control my spending. I think that is the issue today that we have to examine. The ministry's decision is to control expenditures. I cannot and I am not permitted to relate it to our revenue.

Misconception 2, consultations across the province: I have been in the Ministry of Consumer and Commercial Relations since 1987 and I travel across Ontario meeting with the local county bars. We have a thing called a client dialogue. I again supply to the committee a list of the client dialogues that I or the previous director of land registration or Ms Kirsh have attended. I am not going to read them all in, but they cover locations from Muskoka, Barrie, St Thomas, Milton, Stratford.

We meet with the Canadian bar, with Andy Skinner and the real estate wing; I meet with the Canadian bar in the companies area, I meet with the Canadian bar in the personal property area, and we discuss customer service. We discuss services, we discuss the future of automation, we discuss staffing levels, we discuss where records are housed, we discuss legislation and future plans for legislation. We consulted on the new Business Names Act. We consulted on the Personal Property Security Act. In fact, we consulted with the Catzman committee for almost eight years to develop the personal property, so we do a lot of consultation and we do a lot of community work.

Two weeks ago, I was in Parry Sound talking to the local county bar, and as well as the bar, we invited local service conveyancers, local members of the Association of Ontario Land Surveyors, very much listening to our clients.

Last year also we conducted an across-the-province client survey and asked staff what they thought, and I think a couple of people have mentioned that. In fact they said: "Don't change anything. You're doing great." But also some people said: "Don't let your service erode. Try to maintain the existing service levels." This is where the decision on expenditure control comes in.

We do have service levels, we do have to control our expenditures and this is a tough one for anybody managing in government or managing a business. Do you take a general constraint across the board each time there is restraint or constraint or a bringing in of expenditure, or do you make a tough decision to cut a program or to close an office or close a facility and limit the amount on the whole system and continue to provide a customer-service-driven system that serves the majority? That is at the heart of this.

As I said, we very much involve ourselves with the local community. We get out to the client dialogues. We sit down and talk to the users. We survey the users. We have a customer service week where we salute our users. We are very much customer-oriented.

When it comes to controlling revenues and controlling expenditures, as I said in Cambridge, the consultation around the closure was not a consultation. It was a decision embraced in the estimates and budget process, which in all the governments I have worked in is confidential.

I indicated that I was involved in the Ministry of Correctional Services when it was closing training schools and facilities across Ontario. I was not involved in the decision-making but I was involved in delivering the message, as director of human resources, when we closed a prison in Burwash employing over 400 staff. I was director of personnel there and we were able to place all those staff in alternative work.

We have always had a vision to make sure nobody loses his employment and that we are a good employer. Nobody consulted the communities of Sudbury or Burwash, because that is a tough decision. Obviously people are going to say, "No, don't do it," but this is within the estimates process, within the budget process.

In the Ministry of Community and Social Services again, decisions were made in the mid-1980s to close facilities for the developmentally handicapped. They had to make those announcements and there was quite a reaction. They made the announcement to close and then the ministry staff began to explain their decision. But they had made their decision to close the institutions for the developmentally handicapped, again to find alternative placement.

Each time when you are doing it within the budget process, within the estimates process—

Mr Ferguson: You mean you don't consult with the public first?

The Chair: Mr Daniels, can you proceed, please.

Mr Daniels: Okay. I am just saying there are certain things that you should consult about—law, and changes to law. We consult on services to clients. I have never consulted, nor have I seen any government, on fees and fee increases or tax increases. These things are part of the budget process and come out of the expenditure budget line.

Misconception number 3: There is an antirural bias in this registry office integration plan. When the integration plan is complete, there will be 51 land registry offices across the province. There are still 51 land registry offices.

I have attached to this report that 18% of the communities where these offices are retained have populations under 5,000. A further six, almost 12%, have populations of less than 10,000. In other words, 30% of the offices are in small communities and municipalities. These are being maintained, despite the fact they account for less than 8% of the workload.

It may be interesting to note that only five registry offices, or 10%, are in cities of populations over 250,000 or more, even though these five offices account for 30% of the work. We are still maintaining our presence across the province of Ontario, from Fort Frances to L'Orignal, from Kenora to Windsor.

It is clearly untrue therefore to suggest that rural parts of the province are being neglected or discriminated against in the land registry system. It is interesting that some users in Cambridge are making the opposite argument as to why their office should not be integrated into Kitchener. It is their contention that a city the size of Cambridge deserves its own land registry office, even though Kitchener is 17 kilometres away.

What is shown in another table is that there are many other cities larger than Cambridge, such as Burlington, Oshawa, Mississauga, which will have to travel even greater distances and continue to travel those distances to their land registration offices. Burlington and Oakville are served by Milton, Mississauga is served by Brampton, Oshawa is served by Whitby. In terms of great distances to travel, centres like Timmins are serviced by an office in Cochrane.

I trust that this underscores that there is no antirural bias in the delivery of land registration services. I also want to note that not only is there no antirural bias; there is still a large network of land registry offices across the province. Even after the integration plan is completed, there will still be 51 land registry offices in both very large and very small locations.

1500

Misconception 4: I would not be commenting on this conception, because it is hard to imagine that anyone would be taking it seriously. However, it has been receiving a lot of attention in the press and I think many people have started to believe it. I am referring to the misconception that this plan is—and I quote from the article in the *Law Times* of 15 July—"greed-driven."

Some people think I or my staff will receive huge pay increases because we are going to save money for the government. Now this is another job I had: I was responsible for the development of human resource initiatives in the government when I worked at Management Board of Cabinet. One of those initiatives was the pay-for-performance system. I was the person who brought in the pay-for-performance plan in 1987-88.

I would like to explain it. In previous years, civil servants received cost of living and also merit increases, similar to what the staff now receive within the bargaining

unit. A few years ago, the Human Resource Secretariat proposed a program where these merit increases and a predetermined salary range would be eliminated and performance would be tied directly to effectiveness.

This effectiveness measures many things. It measures, of course, financial responsibility, but it measures other important things, like human resources and management of people and customer services. It is not just focused on a financial bottom line. It does focus on all sorts of things.

Last year, for instance, my performance was rated on some of the human resource initiatives. We employed a night staff of entirely disabled people and companies and won a national award. In our recruitment in Thunder Bay we recruited 30% of our staff as native Canadians. Those are the things I am measured on and most proud of. But I do not think I am being measured on the fact that we can close facilities as a major commitment or that this is the thing that is going to drive a performance measurement of the senior public service, or of the public service in general.

I clearly want it recorded it that neither I nor my director nor any other civil servant that I know of—and I have been involved in the civil service for a long time—has ever been promised that he would receive wage increases related to constraint measurements. I think we are a lot bigger than that. We are measured on a lot more important things and we measure all areas of results, not just financial results.

Misconception 5: The government is trying to save money on the day-to-day operations of the land registry offices to finance the automation of the land registration system through Polaris. The government has been working on the land automated system for a number of years and in fact received approval to proceed in 1987. At that time the government set a fund aside to automate the land system, separate from our regular registration budget.

They had set aside—and it is quite an enormous amount of money—close to \$100,000 over 15 years to automate the system, because it has to be automated. It is large, it is cumbersome, it is paper-driven and it has to move into the 20th century.

Mr Conway: You said \$100,000. What do you mean?

Mr Daniels: It is \$100 million. Thanks a lot, Mr Conway. That would be a very inexpensive project for computers.

In the spring of 1988 we began to discuss a partnership, and this came from our user groups; from the Ontario land surveyors, who felt that there was a role for them in the automation; from various lawyers, from other users, from systems companies. They approached the government and said, "We are really behind Polaris, but we think there is a way of doing this in partnership with private sector and public sector working together to create jobs and to create an industry that will have demands far offshore." In fact, in the last couple of years we have had over 40 visitors from different countries and delegations across the world to look at our Polaris system. We realize that there is a large pent-up demand for land-information-related systems worldwide, and Ontario, because of its land mass, its interest in automation and its value, could be very much a large partner in this.

In the spring of this year, 1991, this government entered into a partnership with the private sector to establish a new organization called Teranet. The government is a 50-50 partner. The arrangement will speed up the automation. The contract is required to be completed in eight years rather than 15, and the cost to the government has been reduced by \$50 million by speeding it up and by going into partnership.

The original amount of the program was considerably higher than \$50 million. It was always our intention to fund this through other revenues. To say then that the government is reducing the real property registration budget to fund this project, which already has a higher allocation to it, does not make sense. In other words, this is a separate budget line.

It will result in improved customer services, and I think it is a very exciting venture for government. It took a number of years to get it through, and I am really excited about it. I think we will all be seeing the dividends, not only in Canada but worldwide, as this product is marketed across the world.

The next misconception is that there will be significant job losses in regard to the integration. I think some people have alluded to this already, that we are very proud, and I think Terry Moore yesterday mentioned and supported us that we did this in consideration without creating job loss. There are fewer jobs, but by using vacancies, etc, we can save the salaries and wages without putting our staff at risk. We are very proud that we are able to offer equivalent jobs to all classified government employees.

It is true that a major component of the \$1-million savings is also the elimination of 12 land registrar positions. All of these people, except one who was eligible for full retirement, have already accepted other positions in the branch. The land registrar in Russell is now going to be the land registrar in St Catharines. The salary that he was making in Russell is gone for ever. The salary he is making in St Catharines was the salary of the person who retired; that salary is there. This is how we achieved the savings. This is how the \$1 million rolls up. Close to \$800,000 of the savings is related to salaries and wages and is wrapped up in the elimination of the land registrar positions, and these people have already been reassigned and we have lead time to make sure that those savings are real and will be achieved.

In fact, our concern for our employees influenced the development of the plan from two points of view. The first relates to workplace health and safety. While two of the three offices do provide staff with acceptable working conditions—we do not argue about the new office in Almonte, and in our statement we said most offices were archaic; we did not say all. We realize Almonte is a good office. Glencoe has been renovated and Cambridge. But the other offices do require upgrading.

Further, we feel that when we begin to bring our staff together into a more consolidated base we can provide better training and services to them and offer them enlarged opportunities for career development. The major staff consideration affecting the development of the plan relates to what alternatives might have been chosen had we

not chosen this decision to restructure. What would our choice be to save \$1 million? That would be to take 35 to 40 positions out across the province. We cannot afford to do that by attrition. It would have to come out in the offices that are less busy. That is a more draconian move. It also means that you are taking it across the board as opposed to taking your target, focusing your target and making a business decision to take the hit, to make the decision and consolidate yourself. That is what we have done here.

Having commented on what we believe to be the major misconceptions surrounding the plan, I would like to provide you with some of the background and context to assist you in your considerations and report to the Legislature. The Minister of Consumer and Commercial Relations is responsible for the administration of the Registry Act and the Land Titles Act. Pursuant to these acts, the province is required to maintain a land registration system for recording interest in land for the purpose of protecting those interests and providing ready access to such information to all those interested. The Registry Act requires that at least one registry office be maintained in each county, group of united counties, regional municipality or provincial judicial district. The boundaries for a registry or land titles division are set by regulation, and the majority of them coincide with the statutory requirement of maintaining one land registry office for each of the above-noted jurisdictions.

Again I would like to digress slightly and refer to a 1978 decision of the court. Justice Van Camp, *Re Town of Durham et al* and the Attorney General of Ontario, and—I am getting old. I have got to take my glasses off to read this. It is really small.

"Having regard to the history of the legislation...of the Registry Act...which permits the Lieutenant Governor in Council by regulation to combine two registry divisions into one provided that there is at least one registry office for each county, regional municipality, and provincial judicial district...permits the Lieutenant Governor in Council to make regulations respecting any matter necessary or advisable to carry out the intent of the act, the Lieutenant Governor in Council may by regulation combine" them in one county "and direct that the registry office for the combined registry division be located in the county town."

It goes on to say where such a statute "provides for the making of regulations as part of the administration of government, the Lieutenant Governor in Council when making regulations under the statute must take into account financial and budgetary matters. Accordingly, a regulation combining two registry divisions and, in effect, closing a registry office for reasons of budgetary restraint is valid."

1510

This has been tested. It goes on to say that also it does not require hearings; that the government, faced with financial constraint, as a matter of policy can proceed.

Until 1968 the land registration offices were administered at the county level. I have heard a lot of people talk about that. I guess I am getting old enough because I worked in this justice system in 1968. I admit I was a pretty junior civil servant. I was a regional personnel officer for eastern Ontario and working and living in

Millbrook, which is an area, by the way, that is affected by this. I travelled across eastern Ontario from Pembroke and L'Orignal and Russell to our county jails, which were county jails until 1968. In 1968, as part of the administration of justice, it was not just the transfer of the land registry system, it was the whole justice system, and parts of that justice system do not generate any revenue.

If we reverse the decision, then do we reverse the whole decision? Do we return the justice system, the probation services that do not generate revenue, the county jails? In 1968 when I was involved in the takeover of the county jails as a personnel administrator, the staff were paid very, very low wages, compared to the provincial wage structure. They were very excited about becoming part of the Ontario structure. There were very many jails that were closed in 1968. There is no longer a jail in Picton; there is no longer a jail in Kingston; there is no longer a jail in Belleville, because it was more correct budgetarily to bring these into regional centres. That was part of the administration of justice.

The evolution of the land registration system has resulted in several land registration offices not being legally required, and that is what we are saying. We do not need these offices in the proximity of others. The cost of maintaining these extra land registry offices is borne by the system as a whole. This means the majority are subsidizing a special level of land registration services which benefits a minority of users.

One of the tables attached shows the proximity of these extra offices to the other land registration offices in its jurisdiction. A majority of primary users are located in the consolidated offices. The system was able to accommodate this situation initially without disadvantaging the majority of users because the budget allocation to the branch was sufficient. This situation, however, has dramatically changed in the last few years. With the long-term view of updating and modernizing the registration system and services in the province, the government is investing in technology and automation to facilitate access to the system regardless of the location.

At the same time this government has been allocating resources to this long-term development, the ongoing need for fiscal responsibility in all government programs has been reducing funds available for the day-to-day operation. What this means in practical terms is that the budget of running the land registration system and the real property registration system has been reduced in real money, given 1990 dollars, from \$39 million in 1987-88 during the boom years, to \$35 million this year. This year almost 92% of our total budget is accounted for by salaries, wages and benefits. This is consistent with the nature of the work, which is labour-intensive. Given that so much of our budget relates to staff, the branch has responded to fiscal responsibility in recent years by reducing its staff. The result is that in 1987-88 we had 898 staff in 65 offices. This has been reduced by 14% to 771.

Somebody else brought up, "What other places have you been doing?" We have been constraining year after year, pulling back our workload, pulling back our staff numbers by significant numbers, well over 100. So it is not

just this year or this closure. It is a matter of constantly reviewing our fiscal requirements and constantly paring back.

The situation is that the entire branch is under stress to maintain its current workload at an acceptable level of quality. Using the number of transactions per staff as a productivity measure—by the way, the average person can do 3,818 transactions. We talked a bit about what a transaction is. It is all the workload in an office. It is the pulling of the document; it is the abstracting; it is the registration.

This is higher than the 3,500 which we consider to be the optimum. The consequences of this stress can be gauged in the situation in 1988-89 and 1989-90 when our transactions rose to 3,912 and 4,054 respectively. In those years the average month-end backlogs in document abstracting and microfilming was at times twice as high as it is now. At most meetings that we have attended people seem to be confused about what a transaction is. I think I have said that. It is a general workload measurement.

Also, during those very busy years we suffered a serious increase in errors and omissions as identified by our monthly reports, and users across the province have complained of very slow service. The major difference between those years and the current situation is that there was a real estate boom and even with many more staff we could not keep up with the demand.

In situations like this we have to make tough decisions. Either we reduce our services and reliability everywhere, or we make significant structural changes. The structural change we are making is to consolidate the land registry offices from 65 to 51. An examination of the registry offices not located in the same community as the sheriff and not legally required shows that they all operate at a higher cost per transaction than the office into which they are being integrated. Again, this is attached.

Mr Runciman: On a point of order, Mr Chairman: We have now gone over half an hour, and obviously, looking at this, Mr Daniels is going to go on for another 10 or 15 minutes. I wonder if we simply cannot accept this as submitted and move on to questions and answers. He is 11 minutes over what he suggested he was going to be.

Mr Daniels: I would like to just read the last few paragraphs into the record. I will skip over the rest.

In closing, I would like to say that the decision to consolidate our offices was a difficult decision and one we did not take lightly. It was a decision we chose to make, however, because we believe it is in the best interests of our users, staff and the real property system. We have chosen to control our costs by restructuring our service rather than imposing a general restraint within the branch, which would have eroded the services across the province.

We have chosen to strengthen our service in 51 offices rather than weaken our service in 65. We have chosen to use our resources in a way which has allowed us to provide fulfilling jobs for our classified staff who work in the branch.

The last table attached to these comments lists the 51 offices which will exist after the integration is complete. We have chosen to support the staff who work in these locations, the clients who attend these offices and the population who rely on the land information system held in

these offices in a way which is both legally and fiscally responsible.

The ministry has also received many letters of support regarding our decision to integrate the offices. The following are quotes of typical sentiments:

"My understanding is that small—"

The Chair: Mr Daniels, could we have copies of those letters for our records?

Mr Daniels: Yes. I have tabled all the letters, not just the ones I am referring to, that we have received in support of the closures.

"My understanding is that small registry offices originated in, literally, the horse-and-buggy era of the 1860s when it was time-consuming to travel. The anomalies remaining from situations of 130 years ago are finally being redressed.

"In other areas such as municipal realignments..., the continuing court reforms under the aegis of the Attorney General's ministry, the province is moving forward to recognize existing realities. I am pleased and congratulate you for your ministry's joining the rationalization of this longstanding, confusing and costly anomaly."

Another quote:

"It is an improvement long overdue that small and physically inadequate facilities...be merged into more modern and efficient premises. As a solicitor who is located on the border of three counties...I have occasion to use all of the local registry offices with some frequency and I can only applaud your proposals."

Finally:

"I do hope your ministry will stand firm on your decision. It makes sense from a budgetary point of view, from the point of view of serving the public more efficiently and from the standpoint of changing demographics.

"Once again, my congratulations on a decision which my colleagues and I feel is long overdue."

1520

The Chair: Thank you, Mr Daniels. What I am going to suggest to the committee is that we divide up the time. What I thought I would suggest is that each party take 20 minutes. Then we will have a second round of five minutes each. That way everybody will have a chance to come back to an item or items they may not have completed. That pretty well will keep us within the time frame we have allotted ourselves for Mr Daniels. It will not take much time away from the time allotted to discuss matters with our research officer. If there is general consensus with that, who would like to proceed? Mr Runciman.

Mr Runciman: Mr Daniels, in reference to your submission here today about consultation, you provided the members with a list of consultations that have occurred or are going to occur in the future. The consultations we are interested in, of course, are in respect to the closures of these facilities. You have been rather general in respect to the kinds of discussions that take place in these matters. I would like to ask you a specific question. In the consultations, the list you provided us, were you specifically discussing the closures, the number of closures, the impacts on communities and those sorts of things?

Mr Daniels: No. As I was saying, these are called client dialogues and they tend to run interest in the service in that town or that community, what that office is doing, to talk about forms, formats, new legislation, the Polaris system, when it is coming, what it is going to do to them. But in some cases it did get into the area of where offices are located. When I was in the Lindsay office, to relate it to the client users there, they were quite vociferous in demanding the rationalization of the Manvers township back into Victoria county. These records are held in Port Hope.

At another meeting I attended in Peterborough the users, lawyers, etc, were concerned about the Cavan and Millbrook documents, which are in Peterborough county, also being held in Port Hope. When I went to Ottawa just a few months ago, the Ottawa lawyers were asking for the return of the Cumberland office. So it is pretty much a part of that.

Mr Runciman: I appreciate that. You have heard a great deal of criticism over the past two days about this particular decision and the lack of consultation of user groups. What you are suggesting is that that criticism has some validity, that there was no real effort to talk to user groups about this specific decision?

Mr Daniels: No, I think the decision to integrate our offices was part of an estimates-budget decision, as I said. My experience, either direct or indirect, is that it is not normal to discuss a major constraint or closing if it is part of an estimates or budget activity. It is maintained in the budgetary secrecy in moving the process through.

Mr Runciman: When this process was under way within your branch in the ministry, was there any disagreement with the approach, the decision, or was it something that was unanimous within your own branch to take this decision?

Mr Daniels: Let me just put it in perspective. As part of the budget process the ministry was asked to come up with X millions of dollars that it could save to operate more efficiently. We were asked to go back and think of areas where we could reduce our costs, reduce expenditures.

Mr Runciman: This was during the fall of 1990?

Mr Daniels: During the estimates in the fall of 1990, during the billing of the estimates in the budget at the local ministry level.

Mr Runciman: Yes.

Mr Daniels: The year before we had the question asked us—

Mr Runciman: I am not interested in the year before, please. We have limited time here.

Mr Daniels: That is right. We had a number of issues that we examined. Do we take a general constraint across the board and hit our service generally or do we make a tough decision to restructure ourselves?

Mr Runciman: My specific question was, when this recommendation came forward, was there no difficulty within your own branch in respect to this decision?

Mr Daniels: No. It had been discussed with the director, the previous director, financial analysts—

Mr Runciman: No one had any reservations?

Mr Daniels: No. They did point out the studies done by the previous governments and the community dissatisfaction. We also had the legal argument, which said it was quite legal to do, that it could be done for physical and budgetary reasons and that it would be a valid decision.

Mr Runciman: Was this proposal taken to the former minister, Mr Kormos, and discussed with him?

Mr Daniels: Yes, it would be, through the budget process, because the estimates were prepared at that time. Our submissions would go through.

Mr Runciman: So this was discussed with Mr Kormos. Why was a decision not taken when Mr Kormos was minister?

Mr Daniels: Because it is part of the budget process. The budget was not out until April.

Mr Runciman: Can you indicate whether he was in agreement with this recommendation?

Mr Daniels: It was permitted to go forward as part of the ministry's estimates package, yes.

Mr Runciman: I guess that means he agreed. So this went forward prior to Ms Churley assuming office?

Mr Daniels: No. It goes forward to the Management Board of Cabinet which reviews it. We usually get the result some time in February or March. By then Ms Churley was our minister, and we were able to brief her on the—

Mr Runciman: On the decision that had been taken.

Mr Daniels: On the decision to push it as an estimates issue.

Mr Runciman: Now how long was that briefing with Ms Churley, and how many briefings took place in respect to this issue prior to her announcement in the House?

Mr Daniels: I would say we had about three or four briefings about the office closures.

Mr Runciman: Specifically in respect to this issue, how much time would you say the minister devoted to that, or listened to that point?

Mr Ferguson: Mr Chair, this is crazy. This is not 60 Minutes and he is not—

The Chair: Order, please.

Interjections.

Mr Ferguson: Mr Chair, on a point of order: It has nothing to do with the principle, whether or not registry offices—

Mr Runciman: Mr Chairman, I hope this is not part of my time.

The Chair: That is not a point of order. Mr Runciman, you can continue.

Mr Runciman: I think, Mr Chairman, this is completely relevant. We are talking about a very significant decision.

The Chair: Mr Runciman, you can continue with your questions.

Mr Runciman: I think it is very appropriate to know how much time the minister placed on this issue.

Mr Ferguson: Mr Chair, on a point of order: This individual made a presentation. I would suggest that the line of questioning ought to relate to the individual's presentation and the facts he shared with—

The Chair: That is not a point of order, Mr Ferguson.

Mr Ferguson: I find it unbelievable that we could sit here for almost two full days and listen to all the individuals that the other side lined up—

The Chair: That is not a point of order, Mr Ferguson.

Mr Ferguson: —their lobbyists—then the minister's representative comes here and you do not want to give him 20 minutes.

The Chair: Mr Ferguson, you are out of order. I would have to say, Mr Ferguson, that a lot of individuals and people representing municipal government came here, and you may want to reconsider your phraseology in calling them lobbyists. I do not know if you would want that to stay on the record.

Mr Ferguson: I do not think I would want to cast the blanket that far and wide, Mr Chair, but obviously there were some individuals who were very much prompted to come and appear before the committee.

Mr Villeneuve: You know how it works.

The Chair: It is up to you, Mr Ferguson.

Mr Ferguson: Are you going to dispute that?

The Chair: Order. At this time I am adding the four minutes that we have used—

Mr Ferguson: I have heard the caucuses outside the committee room with your folks and I have heard them inside the room, so do not tell me you have not been out there working the province to get your folks in here.

The Chair: Order, please.

Interjections.

The Chair: I am adding four minutes to the time allotted to Mr Runciman. Mr Runciman, you and your party have until 3:44 to complete your first round of questions.

Mr Runciman: Mr Daniels, I would still like the short answer to the question in respect to how much time you believe you and your officials spent with the minister in respect to this decision. Approximately. I know you cannot be specific.

Mr Daniels: I would say quite a significant amount of time, many, many hours, and there would be quite a bit of confidential discussion.

Mr Runciman: What is "many, many hours"? Just give me a number approximately, or a range.

Mr Perruzza: On a point of order, Mr Chair: Mr Runciman is pursuing a series of questions, and I really do not understand what is at the end of the day, but they are all built on speculation on where the minister was; how long the briefings took; how well was she aware of what has transpired. I do not understand how that relates to—

The Chair: It is not a point of order. This is normal practice, sir. Mr Runciman is not out of order. He is directing questions to the witness, and as far as I am concerned,

there is nothing out of order. I am adding another minute to Mr Runciman's time; that is 3:45.

1530

Mr Runciman: Mr Daniels, if you cannot give me a figure, that is fine. I am asking for you to give me an approximate figure, and give me a range, if you would not mind.

Mr Daniels: I cannot give you an exact figure. Besides my presentation—

Mr Runciman: I was not looking for an exact figure, a rough estimate.

Mr Daniels: In-person briefings would probably be about 10, 12 hours. Then she would have devoted much more time to appearing and working with her staff. I think we are getting into the whole cabinet part in the ministerial—

Mr Runciman: Let us move on to the budgetary questions. Certainly we have heard a lot of expressions from the government members and certainly they have thrown it back at us. In respect to the question of savings, your explanation here is—I do not know how to describe it, but it is certainly one that would cause most observers some concern, I would think, unless we are misinterpreting what you are suggesting here when you talked about the allocation of revenues and the fact that they are directed to the Treasurer of Ontario and the consolidated revenue fund, and that your budget does not reflect those revenues, so that when you are looking at ways of achieving cost savings, you cannot or do not take into account those revenues that flow as a result of the operations of land registry offices.

Mr Daniels: I guess that is true.

Mr Runciman: I guess I have some difficulty with the economics of that, and if we are saying on one hand the Ministry of Consumer and Commercial Relations is saving approximately \$1 million, but on the other hand, the government of Ontario is losing seven or eight or ten, or whatever millions of dollars, that does not make a hell of a lot of economic sense to me, and I do not think it would to most taxpayers in this province.

Mr Daniels: But I did not say they were losing any revenue.

Mr Runciman: You did not say? Well, we have had testimony before us.

Mr Daniels: No, no, the amount of revenue that we will collect before and after the integration will be the same. People will still transact.

Mr Perruzza: That is right.

Mr Daniels: There is no loss of revenue.

Mr Runciman: That is your conjecture at this stage.

Mr Daniels: No.

Mr Runciman: We are certainly having witnesses appear before us who suggest otherwise.

Mr Daniels: Most of the requirements under the Registry Act are legal requirements. Very few are discretionary.

Mr Runciman: Well, we have had a lot of questions raised about the economics of this and whether indeed it is saving the government any money or not

saving the government money, and you have indicated that because there are cabinet documents involved, the cabinet process of that information is now confidential.

We have also had a suggestion earlier today which I have no difficulty with, and that is the proposal to have the Provincial Auditor come in and take a look at this whole issue and come back to the standing committee on public accounts, which is the appropriate committee, with a report. Then we have an objective assessment of the decision taken by the ministry, and if indeed it is an appropriate one. Of course, there are a number of other factors which could be incorporated in that, which perhaps the ministry has not considered.

I am wondering how you would view that kind of initiative. Do you have any difficulty with the Provincial Auditor coming in and taking a look at the decision and doing a cost-benefit analysis?

Mr Daniels: First of all, we are saving a million dollars. There are going to be 11, 12 less registrars. There is going to be less cost—

Mr Runciman: I asked you a specific question. We are on a very tough time line here. I would like you to answer it, please.

Mr Daniels: Sure, I think we could satisfy a Provincial Auditor, or any auditor, that there is a million dollars saving.

Mr Runciman: You have no difficulty with the Provincial Auditor coming in? I will give the floor to Mr Murdoch.

Mr. B. Murdoch: Ted, did you want to?

Mr Arnott: Mr Daniels, I want to thank you for coming forward today. I am exceedingly disappointed that the minister has not been present for this. She is away apparently. But frankly this has been a political decision. You started off by saying it was a cabinet decision, but you have been left to hold the bag, and I regret that your name has been essentially dragged in unfortunately.

Mr Daniels: It is part of our job to recommend and try to operate an efficient organization.

Mr Arnott: Responsible government suggests that the minister should be prepared to take responsibility.

The Chair: We cannot hear you. It is very noisy here with the window open.

Mr Arnott: What complaints did you have about the Arthur office or the Durham office that necessitated the decision to close? Did you ever receive a complaint that either of those offices was operating inadequately?

Mr Daniels: No, we received no complaints from the consumers, but—

Mr Arnott: Have you received any applause from those areas, from Guelph, for example, or Owen Sound, that the other two offices have been closed?

Mr Daniels: Yes. In Owen Sound I saw a letter to the editor applauding the decision.

Mr Arnott: I have not seen it. It is not included in here. What formal notice was given to the county of Wellington or the county of Grey that its facilities were inadequate,

according to Bill 208, and that it should be upgraded so as to retain its office?

Mr Daniels: In terms of notice to the counties, Bill 208 is just coming into effect. We have been analysing it ourselves. We have not advised the counties yet.

Mr Arnott: Briefly, how would you define consultation?

Mr Daniels: I was saying earlier that the type of consultation we have been doing around customer service, service to the clients, talking about the future coming of automation, sitting down and having a really free-form discussion about what the clients want, that is what we consider consultation.

Mr Arnott: To me, if I am contemplating closing an office, consultation is where I sit down with the users and the other affected individuals or groups and say: "I'm planning to close this office. How do you feel about it?" Then I would get their response back. Would you comment on that? Was that done at all in any meaningful way?

Mr Daniels: These decisions around restructuring and closures were done within the estimates and budget process. We knew obviously that people would be concerned and upset, that there would not be a groundswell of support in the local communities. We took that into account, which is the way it was when I was involved in previous decisions closing prisons or closing facilities for the disabled. These things are tough decisions and they are made part of the estimates process.

Mr Arnott: So you focused on the target and let go at them.

Mr Daniels: We advised them, told them our reasons, but mentioned to them that it was part of a government expenditure process.

Mr Arnott: The reasons the minister has articulated in the answers to various letters she has received have been completely shot down in the last day and a half.

Mr Daniels: I do not think they have. We are saying we can consolidate our service and provide better services; rather than taking a general government constraint, target our constraint through restructuring.

Mr Arnott: You suggest you are going to save \$1 million through the elimination of land registrars' positions. Some years ago it was suggested that the land registrar's position in Durham was eliminated—

Mr Daniels: And satellited.

Mr Arnott: —and yet continued to function. Why could that not be the case?

Mr Daniels: The satelliting operation still requires us to travel, for the land registrar in Owen Sound to maintain a supervision. There are still costs related to the satelliting. There are still the costs of the janitorial services, of the lease, of the machines, of the telephones and all the other things that are going to be saved by the outright closure.

Mr Villeneuve: I have had occasion to go to the Cornwall registry office on a number of occasions in my other incarnation as a real estate appraiser, and I can tell you that I have had to wait for a corner on a table for quite some time. I have also had occasion to go to Alexandria for

Glengarry county and to Morrisburg and to Prescott. We are dealing with a situation—I think Cambridge has it also in the switch to Kitchener—where you have a state-of-the-art building ready to receive whatever. I think we have that in Morrisburg, Alexandria and Prescott. Have you considered the cost to renovate the buildings that are theoretically going to be receiving all these additional customers? I do know that Cornwall cannot handle it properly, and we heard yesterday that Brockville cannot do it. I gather that Kitchener is going to have a problem. Have you looked into the capital cost?

Mr Daniels: Yes, we did. In fact, we recognize there will be costs of relocating files and filing cabinets and furniture and that in certain cases there will be minor capital expenditures. But remember, the savings of \$1 million is for ever, and the expenditure of a few hundred thousand dollars to get things ready is one time. When you are making a decision, you have to look at long-term costs and short-term costs. This is a base reduction to our salary, a basic \$1 million out of our total operating budget, and it goes on and on and on, whereas if there are certain small capital requirements, that is a one-time cost.

Mr Jordan: You stated that since 1987 you have been excited about Polaris and getting it moving and getting it into place. Why would you build a new office in Almonte at a cost of \$1 million, open it last year, and serve notice this year that you are closing it? Where is the planning? Would you mind explaining that to me?

1540

Mr Daniels: I think I was talking about the planning for the Polaris system, not necessarily the planning around offices, but you are correct. The office in Almonte needed to be replaced. It could not be renovated, it could not be retrofitted, and it cost close to \$1 million, as you said. It had outlived its usefulness. Right now, this decision in the process is saving immediately \$1 million in Colborne, because Colborne has to be replaced. The Colborne land office would have cost \$1 million—

Mr Jordan: But my question is that you were aware last year—there was a needs study done prior to building the building in Almonte. You are still there; you were also there in 1987 in this position. Will you please explain to me what changed?

Mr Daniels: The requirements to continually control our expenditures. We had made decisions in 1987 to close our legal audit area. In 1988-89 I closed down the condominium area. Another year we closed something else. Each year we have to cut back and try to manage our resources. This is the year we had to make a decision around the closing and the restructuring of offices.

Mr B. Murdoch: What you are saying is that you spent \$1 million in Almonte and you are saving \$1 million this year, so now you are even. What are you going to do next? That does not make any sense at all.

Mr Daniels: The capital expenditure in Almonte is one time. The saving of \$1 million is ongoing.

Mr B. Murdoch: So you are guaranteeing us today that there will be no more civil servants hired in this area? Is that what you are saying?

Mr Daniels: I am not saying that. I said we will continue to reduce our manpower as the workload reduces. The real estate business is down. That means our workload is down. We have reduced our staff, not for ever, but we have to pull back to match our service requirements. That is what we were asked to do and that is what we have done.

Mr B. Murdoch: So you have a plan for the next five years. Would you release now some of the names of the others you are going to close so people will not be so upset?

Mr Daniels: We do not have a plan that would address further closures. We look each year at our estimates, each year at how we can control our costs, what the volumes are, what the transactions are.

Mr B. Murdoch: Then it is the philosophy of the bureaucrats to save this money but put it on the backs of the consumers. If you are saving this money by closing these registry offices, but you also say you are going to make the same revenues you were before, then somebody has to make up this money you are saving. Obviously, according to all the people who have been here for the past two days, it is going to be made up by the users. That is your philosophy. Am I getting it right?

Mr Abel: On a point of order, Mr Chairman: Mr Murdoch is continually trying to put words in the witness's mouth.

The Chair: That is not a point of order. Let's continue, please.

Mr Abel: I would hope you would not allow that, sir.

The Chair: I have not seen anything out of order all day, all afternoon. I am sorry if you—

Mr Abel: I am talking about this particular case. I am talking about Mr Murdoch. I have been listening very closely to what he has been saying, and he has continually been putting words in the witness's mouth.

Mr B. Murdoch: I would hope this civil servant who has worked here for 25 years could answer for himself.

The Chair: Can we please continue? I am sorry, Mr Abel, that was not a point of order.

Mr B. Murdoch: I was asking you, is this a philosophy of the government, to put the savings on—

Mr Daniels: Not at all, obviously not.

Mr B. Murdoch: How do you explain it? We have been here for two days. You have been here with us and you have heard that. All the people who were here brought briefs that said it is going to cost them extra money. Is that not directly putting your savings on their backs? You explain that.

Mr Daniels: Sure. We look at the restructuring of the whole operation to one per county. Most counties only had one land registry office. The lawyers in those other locations have been competitive. The lawyers in Mississauga are competitive with the lawyers in Brampton, even though

they travel to Brampton. The lawyers who are working in Oshawa travelling to Whitby are competitive. I would challenge—

Mr B. Murdoch: Does this mean there should be one registry office located in each county, or could we just put one in Toronto for all the counties of Ontario?

Mr Daniels: No, we are saying that 51 is a reasonable number.

Mr B. Murdoch: I just want to get the philosophy straight. Is it one registry office in each county, so in the counties that do not have one, you will reconsider and not close theirs?

Mr Daniels: No, we talked about united counties.

Mr B. Murdoch: Talk about the county of Grey. Where are theirs located within the county? If you want to use specifics, the city of Owen Sound is not located in the county of Grey.

Mr Perruzza: Mr Chair, if Mr Murdoch would like to discuss government philosophy, he should do that with the minister and with the cabinet. He should probably write the minister and the cabinet a letter. The deputant is making representation to this committee today, and I guess he can speak on how he sees the government's directions and what the government's philosophy is going to be a year down the road, but I think it is a little inappropriate and unfair to him for you to be putting him on the spot this way. He probably should tell you he is not going to answer those kinds of questions.

Mr B. Murdoch: Is that putting words into his mouth, I wonder?

The Chair: Mr Daniels is here, from what I understand, to represent the ministry. Mr Daniels is here to answer questions of the members of the committee, all members of the committee. I have to repeat that so far everything I have heard this afternoon is in order. I am sorry if not all members of the committee happen to be in agreement with that. Under the rules of the Legislature and of the committees and the traditions we have worked under for a very long time, at least as long as I can remember, the questions that have been put this afternoon are in order.

If the witness feels he, for any reason, cannot or should not answer a question, the witness is free to say that. I have been in committees where in fact civil servants have said to members: "You're asking me a direct political question. You should go to the politicians or the ministers or the parliamentary secretaries for that answer." Unless Mr Daniels feels these questions are such that he cannot answer, I think we are going to continue. We have time for one short question.

Mr B. Murdoch: Maybe this is the time to ask Mr Daniels, do you think it is appropriate that when we are in these hearings the instruments in the Durham registry office are being moved? We are having hearings here today on this issue.

Mr Daniels: I have filed with the committee a report, both our ministry and the Ministry of Culture and Communications, with regard to the removal and destruction of documents prior to 1948. This is a long-term process,

begun in the mid-1980s and continuing. It has nothing to do with the integration or the closure of offices. It is merely part of a records retention process.

Mr B. Murdoch: I would like my answer, though. He has not answered my question. I just asked him if he thinks it is appropriate when we are in these hearings that this should be done now.

The Chair: I say to the member that I cannot advise Mr Daniels as to how he should answer your questions.

Mr Daniels: I think it is quite appropriate. It is part of a normal process of records retention.

Mr Conway: I would like to take a few moments to review a couple of things. I do not know a great deal about registry offices. We have one in my community, which is Pembroke, the old county seat of the old county of Renfrew. What I do know, as I was alluding to yesterday, is that there was a time when it was a great political plum to be selected as registrar. Successive governments over the generations used to offer it to members of the Legislature who got quite tired of being here or otherwise were required to leave.

I have really enjoyed these two days. I cannot remember a time when I have enjoyed two days of testimony quite as much as these last two days, and I say that because I do not know a great deal about this business. I do know something about your public service, and I must say you have had some very difficult cases to carry. I do not think this can have been one of the lighter ones, from everything I can—

Mr Daniels: I think closing Burwash Correctional Centre was pretty difficult.

Mr Conway: I can only go on what I have heard, and I had nothing to do with the organization of these hearings, though I know a lot of the people who came, and they are quite good people, the ones I know.

On the basis of what I have heard, I think you are in some difficulty here. It is difficult for me to talk to you, because ultimately this is a political decision. You are doing very well in defending or explaining the decision that has been offered but, classically, this is a political decision any government has to take. We have all had to take them and defend them, and sometimes they are not much fun.

Let me make a couple of observations of where I think I would take issue with you. One of the reasons I am here today is that I asked to be substituted on to this committee, and from the point of view of being a representative from rural eastern Ontario. I know nothing about Cambridge and all of the rest of it, but certainly on the basis of what I know and what I have heard, I would absolutely reject any suggestion that for people living in the rural counties of Lanark and Leeds and Grenville and Stormont, Dundas and Glengarry and, quite frankly, south Renfrew, this integration will be anything but a reduction of service and an increase in cost to the consumer. There is absolutely no question in my mind about that on the basis of everything I have heard.

1550

There may be a body of evidence out there I have not heard that will make something of the contra case, but

listening to these people my friend from Moose Creek brought in here to talk about the united counties, it could not be clearer. If you are living up in northwestern Dundas county and you are going to beetle your way into Cornwall, let me tell you, not even yours truly who has had to kind of string lines in crazy directions would not try to make that case for being more efficient and less costly. If I were a taxpayer, there is no question in my mind, living in all of those eastern counties that are essentially rural, this is going to be more inconvenient and more costly. No question about it on the basis of what I have heard.

The difficulty I have is the argument being advanced that you had a difficult choice, and you are in a difficult position. Someone said it here yesterday, and I want to just repeat this because you cannot say, but I can, and this takes us to the sort of macro picture for the government.

There are at least two main players involved in this: the Ministry of Consumer and Commercial Relations, which manages these offices, and the Ministry of Government Services, which is the landlord. I believe you when you say, and argued quite convincingly just a few moments ago, that there will in fact be at first instance operationally \$1 million worth of savings. I would dispute that those savings will hold up over time; I cannot prove that but I would be prepared to make a wager. I will accept, without any question, that for the first couple of years your \$1 million will more or less be achieved. However, there is absolutely no question in my mind that when I look at the overall picture for the Ontario government, and I go one department over to Government Services, I would hazard a guess that the \$1 million in operational savings for the first two, three or four years will be completely buried in millions of dollars of capital upgrades. Absolutely no question.

My friend from Moose Creek knows Cornwall a lot better than I do. I certainly know what is going to happen in Perth. My friend here from Colborne has talked and the member from north Wellington has talked about Arthur. Now that is not your concern because you are the Ministry of Consumer and Commercial Relations, and the difficulty in this discussion is that in some ways it is unfair to have at you on this account because you are going to appear before Management Board and make the case that you have made here, and within a very limited perspective, you are right.

But corporately there is much more to this story, and there is no question in my mind—and it is a rhetorical question because you cannot answer this. This is a question the Legislature has to answer and the government has to think about that overall, the costs, because I do not think the savings are going to be there. I think the service reduction for people living in rural Ontario is going to be real and palpable.

A lot of very learned people came before us and they certainly seem to speak almost as one. I noticed that on occasion some lawyers thought the transaction costs might be up by \$200; some thought \$150. But it seemed that the general weight of the testimony from lawyers is about \$150 minimum, and the surveyors were saying for transactions, \$100. If I live in south Mountain, I am going to be annoyed—I am going to be really ticked off about an addi-

tional \$200 to \$250, and I do not want to read in the Almonte Gazette that somehow I have saved money, because that is really going to annoy me.

I could understand that the debate at Management Board will be entirely of a different kind, but the argument that this is going to improve the service and save money, I would submit to you on the basis of the overall picture of the government of Ontario and on the basis of what we have heard, is not correct for the reasons I have submitted.

You have made the case that you had a decision to make at the ministry level. You could either administer the cut across the board—and I think the figure used was that there would be 35 jobs lost—or you could isolate the cut by integrating Arthur with Guelph, Durham with Owen Sound and Almonte with Perth.

Mr Daniels: I would like to answer that.

Mr Conway: I just want to make this point. I submit, as a representative from rural Ontario, that we lose in that. There is absolutely no question that we lose and we lose in a real and big way and we are fed up with losing. As somebody said, I forget who it was, there are—I guess it is Colborne, the only government office left is the registry office and down it goes.

The Almonte example my friend from Montague has talked about is just madness on stilts to the general taxpaying public out there in Lanark county because we opened this beautiful office in Almonte a year ago. I will confess something. I was around, not as the minister responsible but the political minister, and I had an awful lot of people tell me about a lot of things internally that should not happen. I do not ever remember anybody saying to me: "Listen, this is just politics. For God's sake, don't do this in Almonte. There is going to be, or there should be, a consolidation in Perth." I heard that about a lot of other things, but I will not bore you. I do not ever remember anybody saying, "Listen, don't do this." And we did it.

It is too bad Doug Wiseman is not here because for the five and a half years I was in government, every time I saw my friend Wiseman, all he wanted to talk about was what we were going to do about that beautiful, little, old, completely overburdened office in Almonte. So we spent \$1 million. We opened it last year and we announced its closure in May. Down the road 37 kilometres is a leased building that everybody knows. If you read the Carleton Place Canadian you could see this spring that a lot of money—it is not your concern, but the Minister of Government Services is going to be sitting there saying, "We've got a big upgrade just to meet the fire marshal's requirements."

You're sitting in Lanark county and you just say: "I can't talk about any of the rest. This is insane." My point is that when you look at the overall picture, would you not agree there is more to this than just the limited savings that are going to accrue to the MCCR account; that when you really look at it, and I am just using those two examples, Cornwall—

The Chair: Excuse me, Mr Conway. Mr Perruzza has a point of order.

Mr Perruzza: On a point of order, Mr Chairman: I do not understand the procedure for today. Is it a question and answer to the deputy or are we going to engage the deputy in a debate with the individual members? Mr Conway has been going on at some length and he is making more of a speech. If that is intended to solicit—

Mr Conway: It is a fair criticism and I will accept it, but I wanted to set a bit of the flavour for how this appears from the perspective of rural eastern Ontario. I just want to focus in on two or three specific questions.

On the point you make about your inability to retain the fee revenue, I understand. Is there perhaps a case to be made for, in some cases, devolving this back to the counties?

Mr Daniels: No, not at all, because the revenue the government retains from this it uses, I think, quite well. Coming from other ministries that have no way of generating revenue—

Mr Conway: But are you not looking at it from Management Board? I am asking you if you are sitting out there in Stormont-Dundas or in north Lanark, saying—

Mr Daniels: No, I am looking at it from anybody's point of view. The government has requirements. They have a lot of pressure to spend money and we can generate—

Mr Conway: I am a citizen in Lanark county and I am looking at this because, unlike some of the other things you have highlighted by example, this is a service. This is a very direct service that has a very real impact on my ability to buy a house and sell property, so I am looking at it from the point of view of a user-friendly service that has been traditionally provided by the provincial government. Looked at from that perspective—

Mr Daniels: And within the county of Lanark, it still will be provided. We will continue to provide this service in 51 locations, not 25, across Ontario.

Mr Conway: But if I live in north Lanark, west Carleton or south Renfrew, the new proposal is significantly more costly to me as a consumer and much less user-friendly.

Mr Daniels: First of all, I think the system will adjust. It has. Certain counties with one office have operated for years. Lawyers in Mississauga, Oakville, Brampton, I would be wondering, how can they be competitive?

1600

Mr Conway: But, Art, you know, if you have lived in Peterborough county—for some of these people, and I guess I am one of them, it is like discussing electoral redistribution. Every time I hear these judges and commissioners my blood starts to boil because I represent 3,000 square miles. That is different than being the member for St Andrew-St Patrick—not better, not less significant, but it is a hell of a lot different. To be in Bainsville—it is a long way from Bainsville to Prescott.

Mr Daniels: The other day I was in Parry Sound and I asked the lawyers what they thought and they said to me that the lawyers in east Parry Sound district organized their workload, that they come to the land registry office in Parry Sound from Burk's Falls once a week. They orga-

nize their work and they do not pass that on to their clients. They organize themselves around it.

Mr Conway: I know there is an historical difference, but in the united counties of S-D-G you are dealing with three of the original counties in the province of Ontario. As somebody said, they pre-date the province by 100 years. That is, they go back to the creation of the province of Upper Canada.

I see the submission that has been offered—and I am not surprised; all of these lawyers in Peterborough are very happy. I am not surprised they are happy and I do not fault you for that. I would be happy. I am not arguing this cannot be adjusted here and there, but Pierre Aubry and some of those people who were in here from Glengarry—and there is also, I would think, in some of these cases in S-D-G, a linguistic factor. That may not be a problem, but Glengarry is—what?—50% francophone. Dundas is decidedly less so.

Mr Daniels: Cornwall is a designated francophone office.

Mr Conway: I know that, but the Parry Sound situation, I suspect, is not at all comparable with S-D-G and I shall finish with this. I see the point you were making on table 1 on one of these handouts. In Renfrew county, for example, Arnprior is 80 kilometres from Pembroke. But the irony of this is that these people are going to be ticked off—I have talked to a few of them—because, if you live in Arnprior I would guess about 40% to 50% of your transactions—maybe not that high, but 30% to 40%—will be in Almonte. So they are mad. The gang in Arnprior will do, in many cases, as much business with north Lanark as they would with Pembroke.

Mrs Fawcett: Just to carry on from there, I notice in the distance between integrating—and we are talking now Colborne to Cobourg—you say it is 24 kilometres, which is right. That takes maybe 15 minutes at the most to go, but there is no consideration here that a lot of the business comes from Trenton. We are talking 50 kilometres one way and then returning again. You do not give the true, full picture here, and I think that is what is really annoying to so many people. It looks like you are saving this almighty million dollars, and I know we are not supposed to put them both together but, God, what is going out on the other end to incorporate this, to save the million bucks, is nuts; it really is.

I know you are going to have to do something with that Cobourg office if you are going to put part of Port Hope and all of Colborne there. Colborne does more business even than Cobourg. It is not going to fit. They cannot all get into that Cobourg office. You are not going to get it for free. You are already paying rent. You do not even have to pay rent in Colborne.

Two weeks before you made the decision you were dealing with land in Colborne to build a new one there. Something was made very, very quickly here and obviously these client dialogues—I am interested in that. What do you mean by a client dialogue? Who is your client?

Mr Daniels: Surveyors, lawyers, conveyancers, searchers.

Mrs Fawcett: I read down this list and it says deputy minister and senior branch staff.

Mr Daniels: That is from our side, but the clients are all the other people. We meet with all the clients in that office.

Mrs Fawcett: But there was not anybody who came before us who met with you. I just do not understand this.

Mr Daniels: We are talking about 51 offices and 65 locations. We have only heard from 12.

Mrs Fawcett: No, we are talking about 14 that are going down.

Mr Daniels: Two are being integrated, Toronto and Ottawa, so 12.

Mrs Fawcett: There are 12 going down. I want to know whom you met with because maybe they had some ideas how you could save money. Was that question asked? Did you ask them?

Mr Daniels: We always ask ways for efficiency. Yes, that is one of the things we discuss. In fact, when we met with the lawyers from Lanark and Almonte, they wanted a fax machine between Lanark and Perth, and that was probably the main item of discussion at that meeting.

Mrs Fawcett: Because they did not know that Almonte was going to be closed.

Mr Daniels: No, and in fact at that time the budget had not been struck either.

Mrs Fawcett: If they have no knowledge of what is around the corner, obviously—

Mr Daniels: But to reduce their travel time between Lanark and Perth and for deals they would do in Lanark or Perth, they wanted a fax system. So that was one of the things that came up in that kind of discussion. Yes, we talk about all sorts of things.

Mrs Fawcett: But it has nothing to do with really what you are going to save now, because you are going to force them all to travel the route anyway. They cannot fax it.

I have one question that one of my delegation left for you and it says, "Ask Mr Daniels how MCCR is going to sell its multimillion-dollar Polaris program to its customers when it has done such a rotten, lousy job of convincing its customers to accept a few registry offices closing."

Mr Daniels: That is a loaded question. First of all, the product, the Polaris—

The Chair: You have 15 seconds to answer.

Mr Daniels: It is a very good product, and we would not have had 30 or 40 delegations from around the world looking at it unless it was a good product. It automates and it will involve digital images—

Mrs Fawcett: He wonders how you are going to sell the multimillion-dollar—

Mr Daniels: It will sell.

The Chair: Very good. Thank you very much. We have on the list Ms Harrington, Mr Mammoliti, Mr Ferguson, Mr Perruzza, Mr Duignan. You have 20 minutes to split up. The Liberals have finished their 20 minutes.

Ms Harrington: We have certainly heard some very real concerns over the last two days. It has been a very interesting process, as Mr Conway has said, because all of us, I believe, were not involved in the background work. We did not really know what we were in for here.

I do have some real specific questions for you, and the first one is with regard to the answering of letters and correspondence that you have received over the last three months. People came before us and asked, and I certainly am not prepared to answer, but I would like to ask you why they were not responded to.

Mr Daniels: I think—and I am looking here at a couple of letters—some are responded to very quickly and others may have more—and I cannot suppose to answer all that. But I am looking here at a letter that was sent to Mr Fallis on June 7, the reply to his May 13 request. I have another letter from Mr Ingram, again responding to his request. A number of the letters that I have before me are responded to, but maybe some of the questions, and I am only reading into this, were more complex issues.

I think we have a good track record in trying to respond very quickly to letters the minister receives and help her staff respond to them.

Ms Harrington: I know it is certainly a difficult process; you receive a lot of letters in any ministry. But I am getting the impression that in this particular case the job was not done well enough for our government. That is my feeling personally. I was just wondering if there is any explanation.

Mr Daniels: No, I think we have responded to the letters that we were able to as quickly as we can. The letters I brought forward have a fairly quick turnaround time.

Ms Harrington: The other thing you mentioned was that the government can proceed without consultation. That was a statement you had made. I would like to let you know that I believe, as a new government, the process of consultation is a very important one and I think in this case it could have been done. Whether it is a necessity by the book or not, the idea of talking to people, feeling where they are, is a very important one. I know even in my ministry there had been legislation which was all set to go that had been left over from the previous government, but that was not good enough. I personally took it and we did a whole go-over again, back to the same people, go at it right all over again. I think that is what you have to do.

Mr Daniels: I just want to say that our ministry has a good record of consultation around legislative change—always has, always will have. We have consulted. Personally, I was involved in the Personal Property Security Act. That consultation began in the mid-1970s and did not wrap up until mid-1980s. It was 10 years of consultation, so yes, we do consult on legislative change and I do not think we are backing off from our consultation model at all. This was a financial, administrative decision related to budget, and there, as I said, and reading from the legal—

1610

Ms Harrington: Yes, I know what you are saying.

Mr Daniels: It is cast in a different light.

Ms Harrington: Okay. I had a couple of other concerns. First, the people who came before us were certainly representing their individual communities and speaking from their point of view, maybe not representing the whole province, and of course we have to look at the vision for the whole province and what is best in the long run. That is why we are here and you are here, to help us.

I think it is fair that we evaluate the branch-by-branch situation, and we are talking at this point about 14 or 15 offices. As a group, I think it would be suitable for us as a government and yourself to look at branch-by-branch situations and how they affect that community and maybe do it piece by piece where it is feasible. Along that same line, the costs we are talking about when you amalgamate one office with another, the space requirements, we have not been told how much that will cost and how that works in with the figures, because we are talking about Cornwall, Kitchener, Brockville, where there will be some adjustments made.

Mr Daniels: There will be costs associated with many of those moves, and some will require only the cost of moving the documents, but there will be in certain cases a need to retrofit. But as I said earlier, those costs are one-time, whereas our savings are for ever.

Ms Harrington: I want to be assured that what we are doing is correct in the long term. We know there are going to be problems in the short term, but as some of the other members have said, we do not want it to be just good in the short term; we want it to be good in the long term, and there are considerations besides financial. I would submit that to you.

Mr Daniels: We felt in our examination that we looked at distances, location of offices, workload, physical plant, future cost of building such as in Colborne. We looked at all those things and felt that it would be better to consolidate ourselves to 51 offices and do a better job on those 51 than spread ourselves thinly through 65.

Mr Mammoliti: Sir, I too am very new at the whole registry office problem. I guess we have the same thing in common with my friend Mr Conway to a degree. He probably knows a lot more than I do, even though he said he is very new at it.

These 24 hours that have passed have certainly been an educational experience for me. One thing I have learned is that we are going to be criticized—"we" being the government—in everything we do, and I would be willing to bet that no matter what decision the government made in this particular case we would get opposition, we would get criticism from the people sitting across from me. Leave that aside; that is just a personal note.

You mentioned earlier that we had to make a decision and that we made a decision. One decision was that we chose this route, as opposed to laying off employees.

Mr Daniels: That is right.

Mr Mammoliti: I must commend not only you, because you obviously agreed with it, you said it would have been draconian, but my government as well. When I hear the word "layoff," my blood starts to boil, and I am glad we chose not to do that. I think for the most part the people who

would have been laid off, if we talk to the employees, probably would say the same thing. So in that particular case, I am glad and I am glad that you agreed with it as well.

Sitting in the Legislature there is something I have learned, that there is going to be criticism. Both parties, the third party and the opposition, have continually criticized us and have said, and I do not agree with this of course, that we cannot make a decision and it is time we made a decision. Well, we made a decision. This is a decision we chose to make, and a fairly good decision from what I can see. If we had chosen another route, we probably would have been criticized for that as well.

The Chair: Is there a question there someplace?

Mr Mammoliti: Yes there is, Mr Chairman. It is coming up. This is not a new project, is it? It has been going on now for how many years now?

Mr Daniels: Well, in 1978 it was attempted.

Mr Mammoliti: What government was in at that time?

Mr Daniels: I think someone quoted earlier from the Law Times, where Mr Grossman said he wished he had done it all at once rather than take it one at a time.

Mr Mammoliti: The Liberals too played around with this somewhat when they had their turn and their kick at the can. Am I right?

Interjections.

Mr Mammoliti: Well, I am asking a question, Mr Chairman.

The Chair: Please proceed.

Mr Mammoliti: They too played around with this, did they not? And they did not make a decision.

Mr Daniels: Everybody looks at consolidation of services.

Mr Villeneuve: They made the decision to leave it alone.

Mr Mammoliti: That is what I am getting at. I am getting to that, Mr Chairman, if I am allowed to continue.

The Chair: Mr Mammoliti should be given the courtesy of being able to ask questions, as other members have been able to do.

Mr Mammoliti: In your opinion, the other two governments that were in at that time agreed to this at first, did they not?

Mr Daniels: I was not here in 1978, but that government obviously reviewed that decision. They had a major report which I have had a chance to review. There were persuasive arguments. The government services operational review said to look at the consolidation of land registry offices. As I say, reading the Law Times, Mr Grossman said he wished that he had done it all at once rather than piecemeal.

Mr Mammoliti: So from what I understand, both governments changed their minds at a later date. After they looked at it, after they agreed to it, then they changed their minds. I say to you this government made a decision and that can say a lot for this government. In my opinion, we have the guts to make this decision. I believe, as you do, that it will work out in the future, will it not?

Mr Daniels: It is a tough decision, and I am—

Mr Villeneuve: What are we doing meeting here?

Mr Mammoliti: The point I wanted to make was that this has been played around with by three other governments, I believe, and we are the only ones who have had enough guts to put it into play. I will leave it at that.

Mr Ferguson: I have one very brief question: Given that you have been around the civil service for a number of years, obviously you have witnessed a number of mergers and amalgamations of government offices and services. Is that correct?

Mr Daniels: Yes. Lots, actually.

Mr Ferguson: Generally speaking, does the government of the day go out and consult with individuals and state that it wants to close this government office or that government office or X government facility before it is done, or does it make the announcement that this is what it is proposing to do?

Mr Daniels: In my experience, they have always made the announcement. When I was involved in the Ministry of Correctional Services we closed a number of prisons and county jails and made the announcement. Then the community would react. In the Ministry of Community and Social Services, we closed a number of facilities for the developmentally handicapped, made the announcement, and people reacted.

Mr Ferguson: So what has this government done differently—

Mr Daniels: That is what I am saying; it is the same process.

Mr Ferguson: —than the previous Liberal government or the Conservative government prior to us? Nothing at all?

Mr Daniels: That was my answer in Cambridge when the people asked me. I said this is a process that I have seen before in decisions around—

Mr Ferguson: Thank you very much.

Mr Perruzza: I am going to keep my comments fairly brief. I just want to pick up on a couple of points that were raised. I am glad to see that Mr Conway cleared up some of the confusion that Mr Runciman was experiencing with the numbers. I guess he was equating this particular move to a McDonald's closing. People who cannot access a McDonald's would then turn to Burger King and McDonald's would lose some revenues and that kind of thing. I am glad to see that was clarified to some degree, saying that if people intend to sell their houses or subdivide their farms they will go on and do that and the registry office will still do the same volume of business as is consistent with what is happening in the marketplace and the impacts on that.

1620

Mr Conway also dared a wager where he suggested there may be a savings of \$1 million in the short term in operating costs for a number of years, but in the long term, substantial capital moneys would probably be eaten up, if I am understanding his point correctly, in bringing the facili-

ties up to par. But that implies that the facilities would be retained by the government or by some other ministry and some moneys would have to be put into that. If you go back to the announcement that was made by the minister when she originally announced the move in the Legislature, she talked about the fact that there would be in fact an \$8-million savings in capital works that would otherwise have to be undertaken in some of the older facilities by this consolidation move. So I think in the immediate, the way I can read it, there is close to a \$9-million savings. I think that kind of initiative and that kind of fiscal responsibility should be applauded by both the Conservatives and the Liberals, because I have heard them time and time again talk about these very things in the Legislature.

I would like to close just by making an observation. I am glad Mr Mammoliti alluded to the 1978 review that was undertaken by the Conservatives. I was not aware of that particular review, but it only further supports the observation I am about to make in saying that we have had some really great technological advancements from 1978, or from the 1960s, when I guess it was more expedient to have a large number of offices scattered throughout the province to provide these kinds of services. Now, with fax machines and computers and the technology that is available, it is becoming more cost-effective and the people out there can access the same kind of service for the same kind of moneys. I am glad to see that in 1991 we are making this kind of decision.

The Chair: Sorry, for the first round of questions the time has expired. We are moving into the second round five minutes per party.

Mr Runciman: Mr Daniels, something I was talking about earlier with respect to the decision on whether this was indeed going to benefit the taxpayers, something along the lines Mr Conway followed as well: This went to Management Board, I gather, at some point prior to the announcement, and I assume there was some sort of cost-benefit analysis that went to the board at the time you made the recommendation to it?

Mr Daniels: Yes, the analysis basically we discussed today, the salary savings, etc.

Mr Runciman: Did that analysis take a look at the broader impact in terms of, for example, the expenditure that the Ministry of Government Services might be obligated to incur?

Mr Daniels: Yes, it did.

Mr Runciman: MGS, through the deputy or whoever made representation at the board hearing?

Mr Daniels: That is right.

Mr Runciman: And had no concerns about this decision?

Mr Daniels: No. MGS was a partner in this submission.

Mr Runciman: We have talked about the question of the broader impact of this, and the fact that we have had a couple of witnesses appear before us with respect to Mr Kirsh making some comments that perhaps all of the ramifications of this decision were not looked at as thorough-

as they could be. I am paraphrasing some of the testimony. You talked about the time frame here as well for the decision being taken. I gather that you do not share Ms Kirsh's views, or do you disagree that indeed she had even voiced those concerns?

Mr Daniels: I do not think she would have voiced those concerns. But I would say that the process in the announcement in May followed the decision of the budget, the statement of the budget, the estimates for 1991-92, and this was an outcome of that budget. That is why the announcement was in May.

Mr Runciman: You talked about the savings in salaries, essentially in salaries in the jobs that were going to be saved, representing \$1 million, and you said you were going to take the hit on this, if I am quoting you correctly. Was there no other option available in terms of saving that \$1 million? For example, was it not feasible in terms of these land registrars to have them operate out of a central location so that you did not need a registrar in each specific office? Is that not a feasible option?

Mr Daniels: We looked at the option of satellite offices, and it does not have the same effect of savings. There is still an office going on there. There are still lease costs, janitorial services, phones. In the true constraint, the restructuring, we do not have to go and visit the office or supervise the staff. All the costs related to operating a physical plant are eliminated. To run it as a satellite is only a half measure and we would not achieve the savings we would have otherwise. But we did look at that, very much so.

Mr Runciman: So when you are talking about the \$1 million which has been bandied about, you are talking essentially about salaries and not these other factors?

Mr Daniels: No, it is a combination of salary, leases, support, telephone lines, all that stuff that goes into an office.

Mr Runciman: So you indeed incorporated the satellite option, but your savings would have been somewhat less.

Mr Daniels: A marginal savings.

Mr Runciman: I gather, when we are talking about this, and it has been brought to our attention, that the human factors apparently have not been a major consideration to the ministry, and its impact on rural Ontario.

Mr Daniels: I think we said they are. We thought they were a major consideration.

Mr Runciman: Well, I do not think so—its impact on rural Ontario or its impact in terms of costs for consumers. So what we are talking about is something less than \$1 million, probably significantly less than \$1 million in savings, if you had opted for the satellite operations. And on the other side of the ledger are all of those other costs, which apparently you deem not to be significant enough to back away from a decision which former governments did back away from following additional study.

Mr B. Murdoch: Just to go on with that, these studies you had done to show that you could save money and things like that, is there a way we can find out what your savings will be, say, taking Durham office to Owen

Sound? Are these going to be available? No one seems to be able to—

Mr Daniels: I think today we are explaining to you that the salary savings are over \$770,000—

Mr B. Murdoch: But people like to have the breakdown. We had a lot of people here who were upset with their closings and they would like to know specifics.

Mr Daniels: I think we best look at it in the aggregate. Sure, you can piecemeal us to death, but I would say it is best to look at it in the aggregate and the total savings.

Mr B. Murdoch: So these results are not available at all?

Mr Daniels: No. We looked at it in the aggregate.

Mr B. Murdoch: I cannot believe that.

Mr Daniels: We roll it up, but it is the aggregate savings that count.

Mr Jordan: Mr Daniels, you stated that you had spoken with the lawyers from Almonte?

Mr Daniels: Yes, that is correct.

Mr Jordan: You do not recall which firms or—

Mr Daniels: Yes. It was quite a few, I think half the—I am just trying to think of the table, how it was set. There were about six surveyors.

The Chair: Sorry, the five minutes has expired. We are going to need all of this time.

Mr Daniels: There were six surveyors and about seven law firms in Almonte. And the chairman of the law society.

Mr Conway: I would just like to take up on Mr Jordan's point. I thought the group from Almonte that was here was really compelling, four of them, each from a different perspective: Pat Galway, the lawyer, Mayor Finner, Garth Teskey and the president of the NDP, to whom I give full marks; I thought that was a very gutsy and courageous thing he did, and I do not say that in any kind of a patronizing way. If there are people in Almonte who have applauded this, I want to know who they are, because I am not as close to Almonte as my friend from Smiths Falls, but I am there a lot and they are real unhappy about this.

I come back to the fundamental issue here. Rural Ontario has been screwed. There is no other way to look at it. I will absolutely accept the argument that we have to save money and we have to do a variety of things, but there is absolutely nothing in this testimony that makes me think that there will be any real money saved, either operationally or capital. I think that both will show net gains, not even baseline holds.

Mr Daniels: But the jobs are gone for ever, Mr Conway.

Mr Conway: What you have basically said here is, "We've got to get the \$1 million and we're going to get it by this integration, because we have decided"—and my friend from Yorkview made the point that he was happy that 35 jobs, the classified positions within the public service, were protected, and I respect that. Therein, it seems to me, lies the fundamental choice.

I have to be quite frank. I am here advocating for thousands of people who live in rural eastern Ontario, in the

counties of Renfrew, Lanark, Stormont, Dundas, Leeds, well represented by a lot of people here, and we have been screwed. The costs are going up, the services going down. There is absolutely no other conclusion on the basis of the testimony offered. It is that choice, the choice to increase the cost and reduce the service while protecting the classified jobs, that I am having a real problem with.

Mr Daniels: But there are still offices in Cobourg. There is still an office in Belleville, still an office in Kingston, still an office in Napanee, still an office in Cornwall.

Mr Conway: I am the member for Renfrew North and I look to my friends and neighbours in Lanark.

Mr Daniels: There is one in Pembroke. There are 51 offices.

Mr Conway: Let's look at Renfrew. Renfrew is a big county. I guess it would be a different situation if we had a registry office in Pembroke and another one in Barry's Bay. We have not. We put up with distances that, quite frankly, most of the rest of the province would not tolerate. It is part of the culture, I guess. I live on the road. I am not even happy about these terrible bills I have to submit every month for my mileage allowance.

But in Lanark the situation is different. There were the two divisions, north and south Lanark, and the point that was made so beautifully by those people from Lanark is that Almonte services not just north Lanark but south Renfrew and West Carleton, a dynamic growth area in that part of eastern Ontario.

Mr Daniels: You can take that logic one step further. If we were fully automated, does the office belong in Ottawa?

Mr Conway: A famous Prime Minister who lived in Mount Royal once said, "If my grandmother had wheels, I suppose she could have been a bus." I can only deal with what I have before me, and what I have before me is bad news for rural eastern Ontario.

The case that has been advanced, which God knows internally I understand—I remember. I should not confess this, but in just about every year I was Minister of Education they would come from Management Board, "It's terrible, it's awful," and we had to cut more money. One of the favourite programs was something called the Ontario scholarship program. Probably for all kinds of bad reasons, I kept saying no, not because at a certain point there is not an argument for that, but among other things, I cannot take the grief. For \$2 million, I am not going to be abused by every editorialist in the province about something as sensitive as the Ontario scholarship, but it is \$100. Other people have made other choices. I respect that.

Mr Mammoliti: What is your alternative, though?

Mr Conway: My alternative seems to be, quite frankly, on the basis of what has been argued, somebody I think from Grey made the point—I give Frank Drea credit, and Michael Davidson, who got some credit here yesterday. Mike Davidson apparently said here 14 years ago that there was a way to do some of what the government wanted in Grey. I forget the particulars, but they decided to make it a satellite office.

I do not believe the argument that has been advanced for Lanark. It is palpably not going to be borne out. I will bet anything with anybody on that. I was once the Minister of Government Services, and that is one of the reasons I am prepared to make the wager. I know what is going to happen here. It is not going to be the concern of Consumer and Commercial Relations but the government as a corporate entity. There is more than one department out there.

When I start from the assumption that, having heard two days of testimony—and it may be very skewed testimony. There must be somebody out there who can make a case on the ground for this decision. I am just caught in the situation that it has not been made. Art has done a good job from the point of view of the senior public servant. I would feel differently if somebody came in here from north Wellington or north Lanark or east Grenville and said, "Now, listen," but I have not heard that.

The Chair: Thank you, Mr Conway.

Mr Duignan: You mentioned the cost-saving factor of \$1 million and some capital expenditure of about \$7 million or \$8 million. I was wondering, was there any auditor involved in making this recommendation, or how did these figures come about?

Mr Daniels: Yes, the major work was done by my chief financial officer. We will be looking at it in terms of the financial viability. So yes, very much a business acumen was brought to bear to it.

Mr Duignan: In each case an audit was done of the office?

Mr Daniels: Yes, to look at the volumes, the workload; things like that. It was not just done by a policy person; it was done by both policy—line—people and people with financial background and capital services background.

Mr Duignan: So in fact these figures were not just plucked from the air, they were hard costs come up with by doing some auditing on those offices.

Mr Daniels: I could easily show anybody who wanted to see it, if they are auditors.

Mr Ferguson: Have you received any communication from individuals out there who are quite happy?

Mr Daniels: I tabled close to 20 letters from Peterborough, Northumberland and Ottawa. Quite a number of people there are quite happy.

Mr Jordan: Nobody from eastern Ontario.

Mr Daniels: The city of Ottawa is happy that Cumberland is coming out of Russell.

The Chair: Any further questions?

Mr Mammoliti: I would like to respond to Mr Conway's remarks.

The Chair: No, I meant questions of Mr Daniels.

Mr Mammoliti: Would not the savings be an incentive? Would that not be just cause for making this decision a \$1-million saving?

Mr Daniels: A \$1-million saving is the reason.

Mr Mammoliti: You mentioned earlier that every year we are getting that \$1-million saving.

Mr Daniels: Every year from now on, yes. It is a base reduction to our budget. The capital costs are one-time only, whereas the base savings, the salary savings, go on and on ad infinitum.

Mr Conway: My point is simply to clarify that on the basis of what I heard. I heard a very good case being advanced by Mr Daniels and the government as to the hoped-for savings, but I have heard two days of testimony the bulk of which makes me believe those savings are not going to be achieved.

Mr Perruzza: On a point of order, Mr Chairman: I understand that you have a process for this committee. I do not know whether you are going to allow across-the-table debates that will go back and forth from one member to another. I understand Mr Mammoliti had the floor and then Mr Conway decided to jump in and clarify or expand on whatever he was doing and then Mr Mammoliti jumped back in again. Are you going to clarify this for us?

The Chair: Mr Mammoliti and Mr Conway were both out of order. You are absolutely correct. Time has expired. Thank you, Mr Daniels.

The 12 hours of the committee work expires at 6:20 so we have one hour and 42 minutes to do a lot of work. Basically, we are going to have to give some direction to the research officer on the writing of the report, and there may be other things, such as motions, etc, that members may wish to discuss. Let's not forget that we have one hour and 42 minutes left to do everything.

Mr Runciman: Since this is a request from our caucus for the 12-hour hearing, as Mr Murdoch has a notice of motion which he gave to you at an earlier date and we have to deal with that notice of motion, so that the committee does have time to deliberate its report, I suggest we deal with it now and perhaps set aside 15 minutes, five minutes to each caucus, so we could have the remainder of the time to deliberate or give direction to our researcher for the report.

The Chair: I think that is an excellent idea. We have had a notice of motion by Mr Murdoch. Because time is limited, could we get unanimous agreement that we limit each party caucus and discussion to five minutes and then we will take the vote and leave the rest of the time to discuss the report with our research officers? Is that okay?

Mr Ferguson: We do not have any difficulty with the suggestion other than that I think the party lines are pretty well defined. I could give Mr Runciman's speech for him and I am sure he could come over and give my speech for me. Quite frankly, I do not see a lot of merit in debating the matter any further. I would prefer that we call a 15-minute recess. We will have our people in place and we will have a vote.

Mr Runciman: It is important for us, in any event, and I think you want to take a position on this. Mr Murdoch has a motion dealing with a specific matter, and we are trying to recognize your concerns about time as well and the fact that our positions seem to be fairly well defined. That is why I suggested limiting debate so that we do not get into political harangues for an hour or more. I am

suggesting five minutes to each caucus. If we do not want to move any further, that is a decision of the committee.

Mr Ferguson: If you really think a debate is necessary, that is fine.

The Chair: We have unanimous consent that the committee set aside five minutes per party to discuss Mr Murdoch's motion. Mr Murdoch, why do you not move your motion and take your five minutes?

Mr B. Murdoch: I already gave them a notice and I passed this around. I would like to change it a little, if I can. That is all.

The Chair: You want to change the motion?

Mr B. Murdoch: Yes. I still have the notice of motion, but since we debated things today, I would like to—

The Chair: You have not actually moved the motion. Why do you not move the motion?

Mr B. Murdoch: I will move the motion that I would like to be in there:

That the committee request the public accounts committee to, at the earliest possible date, call upon the Provincial Auditor to undertake a cost-benefit analysis of the government's decision to close and/or amalgamate land registry offices.

The Chair: That is your motion?

Mr B. Murdoch: Yes.

The Chair: Would the clerk please read the motion into the record so we can get on with our discussion?

Clerk of the Committee: Mr B. Murdoch moves that the committee request the public accounts committee to, at the earliest possible date, call upon the Provincial Auditor to undertake a cost-benefit analysis of the government's decision to close and/or amalgamate land registry offices.

Mr Runciman: I think this whole discussion has essentially revolved around the government's stated view that this is going to save the taxpayers money. They have talked about a variety of figures. To me, it is important that we as a committee get a clear understanding of just what are or are not the real costs to taxpayers of this decision. Obviously, the government, for a variety of reasons, does not want to take a look at other factors—the human factors, the impact on rural consumers and rural Ontario and the real cost this is going to add to consumers who are users of registry offices in these various locations.

In essence, the government and the bureaucracy representing the government have put their case with respect to cost savings. We have had a variety of witnesses challenge that. We have had a number of people here today suggest that in fact there are not going to be any real cost savings. I think it is incumbent upon us as a committee to make sure we have the real facts before us. I suggest the decision was taken by the minister without sufficient consideration of the impact. It has placed her in a difficult position, there is no doubt about it. But I think Mr Rae, the Premier, has on a number of occasions indicated that this government is indeed going to be different. If a mistake has been made, the Premier and his ministers and backbenchers are prepared to stand up and say, "Look, a mistake was made and we're not going to proceed."

I want to compliment Mrs Harrington on the questions she directed. I am not trying to be divisive with respect to the government caucus, but I think it was apparent that she was indeed listening to the testimony before the committee in the past two weeks and it has raised some questions in her mind. In my view, it should have raised questions in the minds of other government members represented on this committee. As we said, there are some very sincere, intelligent, dedicated people who have appeared before this committee in the last two days who have genuine concerns about the impact of the government decision. It seems to me you should be prepared to take those into consideration.

Again, you have lodged your case essentially on the benefits to taxpayers in this province. I say, let's prove that case. Mr Daniels apparently had no reservations with respect to the Provincial Auditor coming in. I spoke to the Provincial Auditor's office during the noonhour break. They have no difficulty with the timing of this, because CCR is overdue for an audit, and they see no difficulty whatsoever in responding rather quickly to a request from the public accounts committee, so we could have an answer to this in a matter of weeks, soon after the House reconvenes. Unless government members have some reasons that we have not heard up to this point not to allow the Provincial Auditor to go in and come back with an objective assessment of this decision's real impact on the taxpayers of Ontario, I do not see why they should be reluctant to see that proceed.

We can talk about a variety of reasons, about embarrassing the government, but essentially I think most of us on this side understand that this is a minister new to her responsibilities and that perhaps she did not have an opportunity to really take a look at the impact before the decision was taken. I do not think you have to be reticent about backing away from a decision where perhaps all the considerations were not taken into account. I am simply taking this opportunity to urge the government members to support this motion. I think you should be as desirous as those of us on this side of the room to make sure we have accurate facts before us before this kind of decision, impacting on many, many communities, is taken. That is, very simply put, the request of our members.

Mr Brown: We will obviously be supporting this motion and there are some reasons. Over the last two days, the basic concern we have heard is over cost saving and a reduction in customer service. I do not think there can be any doubt in the mind of any MPP in this room that service will be reduced for a certain number of people in this province. That is not a question. The question is, what is the cost saving for reducing the service to these people?

There has been a great deal of debate here about what the actual saving might be. Maybe Mr Murdoch could clarify his motion, but I do not think he was just talking about CCR. I think he wanted to look at the whole issue of what costs to government services are involved and have the auditor look at the whole ball of wax and not just CCR's particular involvement here. From that standpoint—I want to be brief because I think we want to get on to debating the full report—I will just indicate our support for this, because we are not very certain that the cost bene-

fit is there and we would like to know that before we see any reduction in service to the people of Ontario.

Mr Perruzza: I will keep my remarks relatively short. I am really surprised that Mr Runciman would try to create the illusion that our civil service is either incompetent or that its abilities are in question here. He has drawn their abilities into question. I cannot read this move in any other way. I have heard his leader stand up in the House and attack the civil service time and time again and I think this is just a move in the same kind of direction.

He is also suggesting a duplication of service. We have had experts from the ministries produce some numbers that would suggest there is going to be a saving of about \$1 million a year and potential for \$8 million in capital costs and that we can streamline the delivery of government simply by upgrading its technology. I cannot understand why he would attack their professionalism and their credibility and their abilities to provide this kind of information. If he is doing that, then he should simply come out and say: "I believe the people who have undertaken this analysis and done this study aren't capable of doing it. Bring in the auditors and let's do it all over again." If you are not prepared to say that, Mr Runciman, then I think the motion before us is simply out of place.

Mr Ferguson: I will be very brief. I think we have to recognize, first of all, that this is not a popular decision with a lot of folks out there. Of course, I think most people in this room recognize that we are not going to govern by opinion poll and only do what is popular. We have a responsibility not only on behalf of the client population group that accesses the services of RLOs on a daily basis; we have a larger responsibility to the residents of Ontario as a whole.

Quite frankly, I am surprised that we have been criticized by my friends opposite for not going out and spelling out the decision prior to making it. In fact, they have suggested to us that we should be doing what they never did. I think there is a little bit of irony in that suggestion.

1650

I have the utmost confidence in the integrity of the decision. I think it is part of this government's commitment to a much larger and more serious strategy of dealing with inefficiency, and I do not think we want to get into a habit of running to the Provincial Auditor every time somebody happens to disagree with a decision. I do not think you have to be an economist or a rocket scientist to figure out, if you follow the practice of the business community, that by merging and achieving economies of scale on a per-unit basis—and that is exactly what we are doing here, nothing any different from that—obviously that has to result in savings, not to suggest that there will not be a cost on the other end.

Ms Harrington: I want to respond to a comment by Mr Runciman about this government acting in this particular instance or other instances solely on the basis of saving money. I would like to have it on the record that our overall way of doing business is to consider other factors. Quality of life in rural Ontario is a very important factor that we will take into consideration.

We did have a chance over the noonhour to speak with some of our people in the ministry with regard to the cost analysis and the question of the auditor investigating this, and I feel confident and have been assured that the cost analysis has been done and that it justifies this position that has been put forward to us.

The Chair: Time has expired for debate on the motion.

All in favour of Mr Murdoch's motion?

Mr Runciman: Request for a recorded vote, Mr Chairman.

The Chair: Mr Runciman has requested a recorded vote.

The committee divided on Mr Murdoch's motion, which was negatived on the following vote:

Ayes-5

Brown, Conway, Fawcett, Murdoch, B., Runciman.

Nays-6

Abel, Duignan, Ferguson, Harrington, Mammoliti, Perruzza.

The Chair: Now we have to turn our minds to the report the committee is going to prepare. I believe it is going to be important to give proper direction to our research officer. I am assuming the first thing the research officer is going to do for the committee is to prepare a summary about the committee hearings, with a cross-reference index for us. Then an interim report will be prepared, which the committee will discuss, and a final report will be submitted to the committee. At that point I am assuming the committee either will endorse the report unanimously or that there will be a split in the views of the committee. We may even have a dissenting report.

Mr Conway: I would be prepared to write my own report and just submit it for collation. I do not expect there will be any kind of unanimity out of this, so I do not think we should put the poor researcher through a pointless exercise.

Mr Runciman: As part of the report, I think it would be beneficial to have some sort of compilation of the witnesses appearing before us and the testimony, and then obviously we are going to have minority or dissenting opinions. Perhaps the best way we can deal with that is to leave the researcher with the task of compiling a record of what transpired during the hearings, and each of the three caucuses can submit in writing to the researcher our stands on this issue. They could be incorporated in the report; I suggest they are going to be minority opinions. That is one way we can expedite it and at the call of the Chair at the next meeting spend some time discussing it. That is one way of getting around it.

The Chair: Do we have consensus on that?

Mr Runciman: Perhaps we should put some time requirement on it, in terms of having two or three weeks to prepare the positions and have them submitted.

The Chair: The committee schedule is full for the entire month of August. I believe there is a week in September where we may be able to take an hour. I will have to consult with the clerk and will notify every member of the committee. I ask the research officer how long it would take to compile the review of the committee's work with the cross-reference index, as suggested.

Mr McNaught: Perhaps by the end of next week.

The Chair: That being the case, as soon as we get the data from the research officer, the clerk will distribute it to all the members. Then at the earliest possible date we will communicate with the members as to a time for a meeting.

Mr Runciman: I wonder whether the clerk would prefer that we set a specific date to have the submissions from the various caucuses, say the end of August, and then hopefully you can find an hour in September.

Clerk of the Committee: Can I just say something about finding an hour in September. This committee was specifically authorized to consider this standing order 123 designation yesterday and today. There is nothing that prevents the committee from continuing its discussion of this when the House resumes, but during the recess we are authorized to meet on Bill 121 aside from these two days only. That is an order of the House. The committee cannot change that.

Mr Conway: I think it has been a good two days. The idea that the staff would collate the summary of material and that each of the three caucuses would prepare their own conclusion, recommendations and what have you and just submit—

Ms Harrington: I would like to comment. There may be some common recommendations. I would like to see whether there are. Maybe the researcher could come up with some and then diverge from there.

Mr Conway: I do not put the research person into a position of trying to make chalk out of cheese. That is a very taxing experience.

The Chair: If we get all the information from all the parties by the end of August, then some time early in September we will be able to convene. Ms Harrington, I think your idea is a good one. If there is common ground, we are going to seek to find it right away.

Mr Conway: We imagine there would be a first section, which is a summary of the evidence, a second section of three parts and what conclusions that evidence leads the three groups here to reach. There may be some commonality in all or part of that.

Ms Harrington: That listing could be stated at the end of the three parts.

Mr Conway: Yes.

The Chair: Is that process fine with everyone? Yes? Okay, so as not to waste any more of our time, the committee is adjourned until further notice.

The committee adjourned at 1659.

CONTENTS

Tuesday 30 July 1991

Closure of land registry offices	G-1043
Peter T. Fallis; Delton Becker; Harry R. Whale	G-1043
Northumberland Bar Association; Northumberland County Law Association; Don Chalmers; Walter Rutherford; Gifford, Harris Surveying Ltd; Kawartha-Haliburton District of Ontario Land Surveyors	G-1051
Kimberley Thompson; Jane Brewer; Brenda Bilodeau; David Bond; George Ingram	G-1061
Ministry of Consumer and Commercial Relations	G-1065
Adjournment	G-1085

STANDING COMMITTEE ON GENERAL GOVERNMENT

Chair: Mancini, Remo (Essex South L)

Vice-Chair: Brown, Michael A. (Algoma-Manitoulin L)

Abel, Donald (Wentworth North NDP)

Bisson, Gilles (Cochrane South NDP)

Drainville, Dennis (Victoria-Haliburton NDP)

Duignan, Noel (Halton North NDP)

Harrington, Margaret H. (Niagara Falls NDP)

Mammoliti, George (Yorkview NDP)

Murdoch, Bill (Grey PC)

O'Neill, Yvonne (Ottawa-Rideau L)

Scott, Ian G. (St George-St. David L)

Turnbull, David (York Mills PC)

Substitutions:

Conway, Sean G. (Renfrew North L) for Mr Scott

Fawcett, Joan M. (Northumberland L) for Mrs Y. O'Neill

Ferguson, Will (Kitchener NDP) for Mr Bisson

Perruzza, Anthony (Downsview NDP) for Mr Drainville

Runciman, Robert W. (Leeds-Grenville PC) for Mr Turnbull

Clerk: Deller, Deborah

Staff: McNaught, Andrew, Research Officer, Legislative Research Service



G-27 1991

G-27 1991

ISSN 1180-5218

Legislative Assembly of Ontario

First Session, 35th Parliament

Official Report of Debates (Hansard)

Wednesday 31 July 1991

Standing committee on general government

Rent Control Act, 1991

Assemblée législative de l'Ontario

Première session, 35^e législature

Journal des débats (Hansard)

Le mercredi 31 juillet 1991

Comité permanent des affaires gouvernementales

Loi de 1991 sur le contrôle
des loyers



Chair: Remo Mancini
Clerk: Deborah Deller

Président : Remo Mancini
Greffier : Deborah Deller

Published by the Legislative Assembly of Ontario
Editor of Debates: Don Cameron



Publié par l'Assemblée législative de l'Ontario
Éditeur des débats : Don Cameron

Table of Contents

Table of Contents for proceedings reported in this issue appears at the back, together with a list of committee members and other members taking part.

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at (416) 325-7400.

Languages in Hansard

Hansard reports all debates in English or French as spoken by the participants. It does not translate remarks made in either language. Headings and tables of contents reflect language use.

Subscriptions

Subscription information may be obtained from: Sessional Subscription Service, Publications Ontario, Ministry of Government Services, 5th Floor, 880 Bay Street, Toronto, Ontario, M7A 1N8. Phone (416) 326-5310, 326-5311 or toll-free 1 (800) 668-9938.

Table des matières

La table des matières des séances rapportées dans ce numéro se trouve à l'arrière de ce fascicule, ainsi qu'une liste des membres du comité et des autres députés ayant participé.

Il existe un index cumulatif des numéros précédents. Les renseignements qu'il contient sont à votre disposition par téléphone auprès des employés de l'index du Journal des débats au (416) 325-7400.

Langues paraissant dans le Journal des débats

Le Journal des débats rapporte en anglais ou en français les débats, selon la langue utilisée par les participants. Les remarques faites en l'une ou l'autre langue ne sont pas traduites. La langue des en-têtes et de la table des matières reflète la langue utilisée.

Abonnements

Pour les abonnements, veuillez prendre contact avec le Service d'abonnement parlementaire, Publications Ontario, ministère des Services gouvernementaux, 5^e étage, 880, rue Bay, Toronto (Ontario) M7A 1N8. Par téléphone : (416) 326-5310, 326-5311 ou, sans frais : 1 (800) 668-9938.

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON GENERAL GOVERNMENT

Wednesday 31 July 1991

The committee met at 1014 in room 228.

RENT CONTROL ACT, 1991

LOI DE 1991 SUR LE CONTRÔLE DES LOYERS

Consideration of Bill 121, An Act to revise the law related to Residential Rent Regulation.

Étude du projet de loi 121, Loi révisant les lois relatives à la réglementation des loyers d'habitation.

The Vice-Chair: This morning the business of the committee is to deal with Bill 121 in the public hearings. I look around and I see a lot of happy faces who are quite familiar with this issue, and I am pleased that the parliamentary assistant is here with us today. She will open the hearings with a statement. I think each of the members has a copy of Ms Harrington's statement.

Ms Poole: Just on two points of business: The first is that we have an extremely tight time schedule during the hearings allocated and I suggest that if committee members are willing, we have an agreement that we start directly on time regardless of whether every caucus is present. That will motivate us, I think, to be much more prompt and will make sure we do not fall too far behind.

The Vice-Chair: Do I see agreement from the caucuses? Agreed.

Ms Poole: My second point of business is that it has been customary that when the minister or his or her representative makes a speech in committee, the two critics from the opposition parties also are given an opportunity to make some brief comments. I wondered if we were going to be following that procedure today.

The Vice-Chair: I think that is the pattern that is usually set in committee, and unless I see some objection to that, I would think that is the way it should go on.

Mr Turnbull: I am having difficulty hearing, because obviously the microphone was not on.

The Vice-Chair: Ms Poole made the suggestion that the critics would have an opportunity to respond to the statement by the minister's representative, and I think that would be a good procedure for us to follow, unless there is some objection. None? Good. Have we satisfied your concerns?

Ms Poole: Thank you, Mr Chair.

The Vice-Chair: Very good.

Ms Harrington: As we begin these committee hearings, I want to assure you that the government welcomes this opportunity for further public comment on the Rent Control Act. As you know, the proposed legislation is the result of extensive consultation with tenants, landlords, municipal officials and many others across the province earlier this year.

In developing a new system, we have tried to deal with people's ideas and concerns while maintaining the

government's commitment to provide a real and permanent system of rent control for this province. I believe we have largely succeeded in doing so, but we are also prepared to make further improvements to the legislation based on what we learn during these hearings.

The tremendous public response we have received to the hearings is a clear indication of the importance of rent control to the people of Ontario. That is why we have already placed so much importance on informing people about the intentions of this government and getting their input.

As you know, we began last February by releasing 20,000 copies of a discussion paper outlining various options on the implementation of long-term rent control. All members of the Legislature received the options paper, which has also been tabled with this committee. In addition, we sent out a newsletter to nearly one million households that explained in plain, everyday language the rent control options we were considering.

The newsletter included a questionnaire which more than 17,000 people filled in and returned to the ministry. This provided valuable information about the concerns of individual tenants and landlords. As well, over 1,200 people participated in public meetings and in smaller roundtable sessions in 20 communities across this province. The Minister of Housing, the member for Wentworth North and myself hosted several of these meetings and roundtable discussions.

This issue elicits strong opinions and emotions from everyone affected by rent control, and I am sure we will have an interesting as well as an enlightening time during these hearings. I see many of you who are already familiar with this committee and its past work, and I know how important these issues are to you and many other people.

In June of this year we continued our commitment to keeping people informed after we proposed the new rent control legislation. Immediately, more than 7,000 information kits were distributed to municipalities, the media, major interest groups and our rent control offices across the province. An additional 3,600 kits were sent out to community leaders later in the month. As well, the minister sent out letters to nearly one million tenant households and 20,000 landlords outlining the major points of the new act.

These information efforts were intended to ensure that as many people as possible were well informed about the proposed legislation. We are committed to providing people with an opportunity to comment on a law that will have such a direct effect on their daily lives.

1020

With that point in mind, I would like to take a few minutes to review the most important features of this legislation.

As members know, the main thrust of this legislation is to ensure that tenants are protected from high rent increases and to ensure that rental housing is kept in good repair. We wanted to put a stop to the 15%, 20% and even 50% rent increases that occurred under the previous government's rent review system. Under the new system, tenants will no longer face large increases in maximum rent. Most rent increases will be limited to an annual rent control guideline which is based mainly on inflation. Rent increases can never be more than 3% above the guideline in any one year.

Tenants will no longer be required to finance luxury renovations, as they had to under the old rent review system. Landlords who fail to comply with outstanding work orders against their buildings will not be allowed to claim rent increases until they clear up the work orders. This is because we felt it was important to address tenants' concerns with inadequate maintenance, and this is obviously a tough stand on this issue.

At the same time, we recognize the reality which a landlord faces in managing an aging housing stock. Thus, the rent control guideline is based on the inflationary changes in a landlord's typical operating costs. The guideline also includes a 2% allowance for capital repairs.

For the first time, the new legislation distinguishes between large and small buildings. Each year, the ministry will set two guidelines, one for large buildings and another for small buildings. The guideline for small buildings, ones having six units or less, will be higher. This is because many people during our consultations stressed that small buildings are more expensive per unit to operate than larger buildings.

As well, the proposed act acknowledges that the guideline may not always be sufficient to cover some costs incurred by the landlord. Landlords may apply to the ministry for increases above the guideline if they experience large increases in municipal taxes or costs of utilities or capital expenditures—three areas.

The rent increase cannot be more than 3% above the guideline in any one year. If this is insufficient, the legislation allows capital costs to be carried forward for one or two years, depending on the size of the building. As well, the proposed legislation exempts new rental buildings from rent control for a period of five years. We believe this exemption will give landlords a chance to establish viable rental housing and help rent levels to settle in.

We have also tried to make the rent control system more flexible and more responsive to various proposed changes in administration and enforcement procedures. Landlords and tenants will now be able to have their differences resolved through a hearing at the local level, or they can opt for an administrative review by the local rent control office.

Under the new system there will be a strengthened role for the rent registry, which is already gearing up to provide more comprehensive information to landlords and tenants about legal rents. Let me re-emphasize the major benefits which we see arising from this legislation as proposed.

Tenants will have real protection from high rent increases. Landlords will have a system that allows them to

plan for and provide the capital repairs their building need. If costs go up for taxes and utilities, they can get relief. Stricter enforcement of standards will lead to better maintained rental housing and the preservation of existing stock. The private sector will have an opportunity to create new rental accommodation and everyone will benefit from a more responsive decision-making process.

During the next four weeks we will have an opportunity to hear comments and concerns about rent control from people across this province. Some will regard the legislation as too lenient. Others will see it as being too tough. I am sure many will have suggestions on how the legislation could be improved, and that is why we are here.

Let me assure members of the committee that we do not believe this legislation, as proposed, is cast in stone. It has always been this government's intention to create a new rent control system for Ontario that provides fairness and stability to both landlords and tenants. We therefore welcome any suggestions from the public or the committee members that will help us achieve these goals. I look forward to working with you over the weeks ahead, and it is nice to see so many familiar faces back.

Ms Poole: It gives me pleasure to make comments on behalf of the Liberal caucus as we go into the public hearings on Bill 121.

Rent legislation in this province has always been controversial. I do not think it has ever been more controversial in our history than over the last several years. It has been a fine balancing act between protecting tenants and at the same time preserving our housing stock and ensuring the health of the housing industry. It is a balancing act, some would say a juggling act, and quite frankly, I think quite a daunting task.

When I sat down several months ago to look at Bill 121, I first formulated what I felt should be the goals of any rental legislation: first, that it should provide rent stability for tenants; second, that it should preserve our aging housing stock; third, that it allow landlords a reasonable return on their investment; and, fourth, that it should be understandable and enforceable.

When you look at those four goals, you will say: "That must be a nice pipe dream. Those are competing demands and in fact they're not realizable. You just can't do all these four things." It is obvious that the NDP government in what has probably been a major reversal for it in its rental housing policy, has made an attempt to realize these four goals.

When we look at this legislation and we look at the public reaction to it, the first thing one realizes is that it has made both landlords and tenants very angry, for very different reasons. Perhaps this has been a signal that it has attempted to achieve some balance. I do see light at the end of the tunnel. This legislation is far from perfect. There are many things that need improving. Some people do not believe it, but there are actually things that both tenants and landlords agree on about this legislation. They might say they agree on it for very different reasons, but they do have agreement.

For instance, both tenants and landlords have agreed that non-profit housing should be included in rent control

Tenants have said that non-profit housing should be included because those tenants deserve the same protection as private sector tenants. On the other hand, the landlords say there should be a level playing field and therefore the private and public sectors should be competing at that same level. So for two very different reasons, both sides have said non-profit housing should be included. I have yet to be given a reason from the ministry at any time for why non-profit is not included. I can guess at some of the reasons, but they are not for public consumption, at least not on the ministry's side. That is one area where I think many of us are unanimous, that non-profit housing should be included, for both those reasons.

Second, I think tenants and landlords have both had a concern about losing the right of appeal. The right of appeal under this legislation is extremely narrow and is related only to an appeal on a matter of law. I have very strong feelings on this. As much as I respect bureaucrats, I am always very leery of putting any type of power—and this is an enormous type of power—in the hands of bureaucrats. Not only that—it is not an arm's-length process. The Ministry of Housing bureaucrats will be making the policy and then enforcing the policy. They will have the final word from the beginning to the end, with only political input.

I will give you a scenario. What if the minister, for political reasons, makes a certain decision? It may not be included in the legislation but may indicate that there is a direction. Those bureaucrats would have no choice but to follow that, whether it be pro-tenant or pro-landlord, to try to appease some of the anger there. Whatever it might be, I can see decisions being made that are not good decisions, because an enormous amount of discretion is going to be placed in the hands of those bureaucrats.

I would like to see written reasons for decisions, written reasons being mandatory. I do not see any justification or the fact that the system can say, "You've won or you've lost, but we are refusing to tell you why." That should be a basic right.

030

There are terms, such as "neglect" and "inadequate maintenance," that are in the act but never defined. Again, you are leaving enormous discretion to the bureaucrats. I think there are going to be tenants and landlords who are going to be very unhappy with some of the decisions because the definitions are not in the act. I will be told that they will be in the regulations—that is always the way it is said—but I am also apprehensive about the amount of power that is going to be dictated by regulations made behind closed doors, not in public, not with public input and not in what I feel is a democratic way.

The other problematic part about denying the right of appeal in most cases and in having only the one level is that if I were a tenant or a landlord, I would opt for the hearing. Now you have a choice of one or the other and it has to be made at the initial point. At that stage, the tenant or the landlord might not have enough information. They may not request that hearing. They may not even know that they have the right to request that hearing, and it cannot be requested later on in the process. I think there are going to be a lot more hearings being held and that they

will be lengthier, because this is the last avenue of appeal. You have nowhere to go after this. Under the old system, where it was administrative and then you had a right to go to an appeal level if you were dissatisfied, you did not worry about whether every piece of information was in. You knew you had a second chance. With this legislation there is no second chance. That is something I think we have to consider when we are looking at this legislation.

The third thing I think tenants and landlords have in common when looking at this legislation is that they say there is confusion in it, there is complexity in it. For all the promises, the government has not lived up to its promise to make it simple and understandable and, most important, fair.

I will give you a few examples. We have in the legislation a provision that there are two guidelines. First of all, this is very confusing for people. I think many tenants are not going to know what situation they fall under. They may be paying an illegal rent simply because they are not aware they are entitled to pay the lower rent.

The second problematic thing about the double guideline is that I think it is based on a false assumption. The parliamentary assistant mentioned this in her opening remarks. I think she said, "It has been recognized that small buildings are more expensive to operate than large buildings and therefore we have made a double guideline." I would like to see the basis upon which they have made this decision. Certainly I do not think the Royal LePage study, which has been cited, shows that, because it is talking about a combination of operating and capital.

Think of it logically. Why would it cost more to operate a small building than a large building? In many ways the reverse is true. In a smaller building, you do not have elevators, for instance. One of the most expensive maintenance items is elevators. You do not have that. It is not the operating expenses that are more expensive in a small building; it is the capital expenditures. The economy of scale becomes extremely important when you are doing capital in small buildings, but with operating there is not a significant difference.

Instead of looking at small and large buildings—and first of all, I quarrel with your definition of small buildings. I do not think a landlord who has seven units thinks of himself or herself as being a large landlord, quite frankly. I just think that is a very arbitrary number which does not bear any relation to reality.

Second, it is not the size, it is the age of the building that is the most important factor when looking at the operating expenditures. If they had said, "We are going to have two guidelines based on the age of a building," I could understand that. At least it would make some sense. But I have a lot of problems with creating this very confusing scenario with very little benefit at the end of the day.

I got sidetracked. Anyway, I think I was talking about the complexity of the legislation in some of the things, like the formula to determine the extraordinary operating. I notice that this legislation is simpler than the previous Bill 51, certainly in one major way, and that is that anything the NDP did not understand or thought was unfair but did

not know how to fix, it just removed from the legislation. I will give you a case in point.

We have something called equalization, which is not to the benefit of landlords; they do not make a penny from it. What it does is equalize the rents for tenants in one building so that they have a better relationship to one another, and yet that is not in this legislation. It is not in because it is complex, and yet I have never had a tenant complain about the complexity of it, never had anybody. They say, "Well, it evens things out." I think you have got to take a look at some of the problems in both the confusion and the complexity of the legislation.

As opposition Housing critic, it is very tempting to just slam this legislation because there are a number of flaws in it, and quite frankly I think I would please a lot of tenants and a lot of landlords by saying, "This is a piece of crap and why don't you start over?" But in all fairness I cannot quite do this.

Mr Turnbull: Go ahead.

Mr Tilson: Go ahead.

Ms Poole: I knew that was coming. I feel very vulnerable having the Conservatives at my back, quite frankly.

Mr Mahoney: How would you feel if I said, "Go ahead."

Ms Poole: I am not sure that is much better.

Ms Poole: There have been gains for tenants in this legislation. There are positive provisions. I think tenants are pleased that cost pass-through is going to be for only necessary repairs, for instance. That was always a big issue with me and with many tenants.

Second, the provision has been made for capital work on our aging housing stock, because, do not forget, these are tenants' homes. They do not want to live in slums either.

Third, there are provisions for maintenance. We have some concern about the form of them, but we do support the intent. We think there are very problematic features in the way it is dealt with in this legislation and would like some amendments in that regard, but tenants are pleased that maintenance is being addressed.

Fourth, and of course a big factor, is that there is rent stability. That is provided for by caps.

Finally, a number of the very unpopular provisions for tenants, such as financial loss, have been removed from the legislation and repealed.

Those are all reasons why tenants should like a number of positive things about this legislation.

Now, when it comes to landlords, I think a number of landlords will say: "Please, tell me why I should like this legislation. Is there any reason on this earth why I should like it?" I guess the major thing is not what it does but what it did not do. It did not keep the NDP promise in the election campaign of one rent increase per year based on inflation and nothing else. I think the landlords and the investment industry in this province are united in feeling that would have been the death knell for our housing industry and would have made sure that not a penny would be invested in housing in this province for years to come. They did not do that.

Second, I think landlords are pleased that there has been some provision for capital repairs and extraordinary operating. They may feel that they do not go far enough, that the cap is not large enough, that extraordinary operating does not cover things like interest rates, but by and large at least some attempt has been made to provide for that.

The third one is the five-year exemptions for new buildings. Again, I am not sure it is going to encourage landlords and investors to build one building, but at least it is a hopeful sign that the government was willing to look at ways of increasing the number of housing starts in this province.

I have just one final comment to make, about the consultation process, and then I am sure my colleague from the Conservatives will be happy to go hammer-and-tonging.

The parliamentary assistant took us through the consultation process of this government on Bill 4 and Bill 121, but I think that was a mockery of a consultation. I have never seen such a PR job to pretend and purport there is consultation when it had no meaning.

I will warn the NDP government. I think that I am a relatively tolerant person and I like to be fair, but if we have to endure the same thing that we did under Bill 4 and in the preview to Bill 121 as far as consultation and listening to the people are concerned, then I and my colleagues will stand up in these hearings and walk out.

1040

If you look at the scenario, it sounds fine on the surface. Yes, they mailed to one million tenants, but they did not give the one million tenants enough information to make any type of informed decision. They said, "Write for the green paper."

Do you know that there were hundreds and hundreds of people on the backlog list for the green paper when they already had draft legislation? They were in the second draft of the legislation two weeks before the consultation period ended and there was an enormous backlog at the end of the consultation period of people who were still waiting to receive the green paper so they could comment.

Opposition members were barred from hearings in their own riding. The Conservative critic and myself were invited, after we made a request to the minister, to attend some of the hearings, but we were not allowed to speak—democracy at its best.

So the PR scam that was engendered when they brought in the Agenda for People during the election campaign, those promises they made which were not worth the paper they were printed on, has continued over their rent control policies over the last few months, and it is not good enough.

We have a real opportunity here. We are going to go into four weeks of hearings. We have an opportunity to listen to people and to make changes that will improve this legislation and I, for one, am willing to co-operate with the government to get that. The Liberal caucus will probably be wrongly criticized because we are going to attempt to co-operate with the NDP government. But we have two choices: We can roll over and play dead and say, "Terrible legislation, we're the opposition, we've got no right supporting anything the NDP

does," or we have a second choice, which is to try to work with them and to improve this legislation and to try to revive the health of our housing industry. We have chosen the second option, and I hope my NDP colleagues on this committee will help by co-operating with us in a spirit of goodwill to try to change this legislation so that we can support it on third reading. We are willing to do that, but only if we feel it is good legislation.

The Vice-Chair: I think we will have Ms Harrington respond following both critics.

Mr Tilson: It is interesting to come back to this committee and see the same old gang. I understand that the only new player we appear to have is a new minister, and I hope that after she has had an opportunity to review the position of Mr Cooke she will be addressing this committee, and hopefully might even see the light and withdraw the bill, which would save us a lot of time. I can hope.

Mr Duignan: That is a daydream.

Mr Tilson: I would like to serve notice on the committee, Mr Chair, of two motions that I would like to bring at a time after you or Mr Mancini have had a chance perhaps to discuss timing with the clerk, and that is the request that two new people, expert witnesses, attend at the hearing.

The first motion is that the members of the general government committee invite a representative from the banking and financial community to attend at the hearings on Bill 121 and offer comments on the proposed rent control legislation.

A similar motion was put forward by Mr Turnbull at the Bill 4 hearings, and that was rejected. I believe there are some financial people from some of the financial institutions who would be prepared to come, and I think one of the major concerns, a criticism that has been developed of the legislation, is the issue of refinancing, the changing upwards and downwards of interest rates and the effect of that on the buildings, the whole issue of financing with respect to providing moneys for capital expenditures, that whole concept, because the financial people are a player in the housing industry. We did not, during the Bill 4 hearings, and hopefully this committee, if it is responsive to the problem, will invite a member from the financial committee, whether it is a trust company or a bank or any other financial institution that gives loans to landlords, to come to this committee.

The Vice-Chair: The committee appreciates the fact that you are tabling these motions. If we could have some copies circulated, it would be most helpful.

Mr Tilson: I have one sheet, which I will give to the clerk.

The second motion, Mr Chair—and I have no specific time frame. As I say, hopefully that motion would be debated at an early date. I have no idea as to when the appropriate time would be that we could have discussion on it, because obviously the times we have scheduled are filled and there would have to be additional time allotted.

One of the issues, and it was raised by the Liberal critic, is the whole subject of the appeal process, and it is a major change from the previous legislation. My party has

taken the liberty of contacting some of the existing rent review people to listen to their comments, and I think it would be inappropriate for them to volunteer to come, but I think it would be most appropriate for this committee, if it is in a position to understand the process—and I say this with all respect of course; most of us do understand the process of the existing system—to compare the existing appeal system to the proposed new system.

Accordingly, the second motion I would like to serve notice that I would like to debate in the committee is that members of the general government committee invite Bob Bentley, who is one of the individuals we spoke to, who is a Rent Review Hearings Board member of the northern region, to attend the hearings on Bill 121 and to offer comments on the proposed rent control legislation.

Those are the two motions I am tabling, and perhaps later today or tomorrow you or Mr Mancini could indicate when you are prepared to allow me to discuss that, and also to discuss the subject, if the committee did feel that they were appropriate people who should come to the committee, of when they could make presentations.

I do know, of course, that in the Bill 4 debates we found it most useful to hear Mr Thom. He came one particular evening. There are times available if the committee could see fit to find time for these people.

I will not go into the details that Ms Poole made on her presentations. I agree with most of them, I disagree with some, but it is always interesting to hear the Liberal critic. Of course, they voted in favour of the legislation on the second reading, and I do not know from her comments whether this is a sign she is going to be voting against at the end. We will be anxious to hear the Liberal position as time proceeds. You are the Chair; you cannot—I know it is tempting for you.

I think our position is certainly much stronger than the Liberal opposition to this legislation is. We believe that there are examples all around this world, and I gave some at the second reading of this bill, to show that rent controls simply do not work and in fact they create a lower quality of life for the tenant.

1050

This legislation certainly does not address the promise of one rent increase that was proposed by the government during the election campaign. I think a lot of tenant associations are most disappointed in that. It does not address the problems of the thousands of the tenants who cannot afford any increases, because I can assure you that there will be many landlords who will just sit by and allow the automatic increases to go forward, whether they need them or not. It does not address the poor who cannot afford any increases. It does not address the problems of senior citizens whose income is limited and who simply cannot afford the increases that this bill is putting forward automatically.

It does not address the problem of providing incentives for private enterprise to construct new housing units. The exemption of five years is a joke. It simply is not adequate. Why would anyone construct an apartment building with the bill that is being put forward by this government? There has not been any new construction and there will not be. Anyone who has money to invest will be investing it

elsewhere. It simply will not pay, and this legislation, if anything, goes the opposite way in regard to providing incentives for new buildings to be constructed.

It is difficult of course, and the Liberal critic touched on this, for me to understand the whole subject of non-profit housing. Non-profit housing is not subject to rent controls. It is as if the government has all these rights. The taxpayer in fact is going to be subsidizing the capital expenditures of non-profit housing. The taxpayer is going to be subsidizing lower-interest loans to government housing. The government has access to lower-interest funds, and it is as if the government simply does not trust private enterprise. Not only is it not providing incentives, but it is not trusting private enterprise to get into the housing market or to continue to get into the housing market. If anything, Mr Rae in his statement has made it quite clear that the government intends to take over the housing industry and to have private enterprise leave the housing industry.

This legislation, if anything, is going to encourage the games of New York and the games of other cities that I described in my presentation on the second reading of Bill 121. The government seems to be ignoring the fact of the crises that have occurred in these cities as a result of rent control, and I will be looking forward to hearing from delegations as to whether they agree or disagree with what is going on in other cities around this world which have rent control.

There appear to be more and more vacancies of rental accommodation in the province. It may not be widespread, but certainly there are more and more areas, for whatever reason, where there are more and more vacancies. I can assure you it is not because of rent control. There are landlords who are doing a number of things. They would rather their buildings remain vacant as opposed to lowering the rents, which would put them in a difficult position because of rent control. If anything, it raises the question, why have rent control when more and more vacancies are occurring, because the marketplace will set the rent?

I still have to hear a logical reason why you need to have rent controls on luxury apartments. Why are we providing benefits to the rich? We are not providing any benefits to the poor, but in fact we are providing benefits to the rich. The rich are simply laughing at Ontario as a result of this rent control legislation.

I look forward to hearing the delegations as they come forward, to hearing what the people of this province have to say with respect to this legislation. I hope that members of all parties will learn from that. I look forward to hearing the comments this morning from the various officials of the ministry.

That concludes my remarks, although I do conclude with one question. I will assume that there will be a time set aside in which we can ask questions of the various ministry officials after their presentations.

Ms Harrington: The ministry presentation, I believe, is an hour and 15 minutes, and I hope to get your co-operation with regard to our agenda. We had invited them. The committee had agreed that we would have them this morning and then begin our witnesses this afternoon. We would like to have questions. We did not anticipate this particular

portion of the agenda going this long actually. We wanted to get started as soon as possible.

The Chair: What I would suggest to the committee, if there is a consensus, is that it being almost 11 o'clock, if the presentation goes to 10 or 15 after, we can always stay an extra 15 or 20 minutes over the lunch hour for questions, if that is satisfactory. If it is not satisfactory, then we have to take a moment to work out what will be satisfactory.

The Chair: The parliamentary assistant has some responses she would like to put on the record.

Ms Harrington: I want to thank the opposition parties for their comments and certainly hope that we will have your co-operation with regard to moving the agenda of this committee forward, because it certainly will help all of us as individuals, I am sure.

First, I want to say that I really look forward to working with our new minister. I am very pleased personally, and I think probably the ministry is, or should be, as well. I hope that Ms Gigantes will be attending this committee as soon as is possible for her, not knowing what her schedule is.

Ms Poole mentioned the publicity of the past while and the public relations or consultation-type process. This is a very difficult process. It can never be perfect. I know that, but I would like to tell you that it certainly has been successful in raising the awareness of what is happening. Just by the number of people who are presenting to us, I think it has been successful.

I want to make it clear to Ms Poole that these hearings that we are now beginning are very meaningful and are a very important process in making sure the legislation is what people in Ontario need and what this government wants to put forward. So I really cannot quite understand why—I did not catch it—she would want to walk out, but I am hoping for your co-operation to make this happen, that it will be meaningful and it will have an impact on the legislation.

I would like to respond to Mr Tilson briefly. I was hoping, coming back after being together on and off over the last six months, that the Conservative Party would realize that the government is serious about rent control, that rent control means rent control and that we are here, all of us, members of this legislative committee, to get the best possible legislation.

You mentioned bringing out a banking expert. I have talked to my staff and ministry with regard to having a banking expert comment on the financing of capital repairs within our guidelines—and I am hoping this will be part of our presentation to you—and give us some examples about how this would happen.

I do look forward to working with all of you. I would like to turn the presentation over to Ms Beaumont.

1100

MINISTRY OF HOUSING

Ms Beaumont: Good morning. My name is Anne Beaumont. I am assistant deputy minister of housing policy. I want to thank the committee for inviting the ministry to make a presentation on Bill 121, the proposed Rent Control Act.

You previously met most of my colleagues who are here with me today, but let me introduce them. On my right is Christina Sokulsky. Next to Christina is Colleen Parrish and at the end of the table is Scott Harcourt. Bob Glass is sitting behind. All of us will be making presentations to you this morning. You have met all of us before, except Bob. I think the committee has not met Bob Glass. Bob is the executive director of rent review programs, so his people are responsible for the actual administration of the rent regulation system. Terry Irwin, whom you have met, is also here this morning, as is Tim Welch of the minister's office.

As Ms Harrington said, we plan a presentation that should last about an hour. The clerk has distributed already some material that should help you in following the presentations.

What we are going to do is describe to you the legal structure of the act and the major features of it. We will give you some examples which will illustrate how it will affect some particular situations. We will also provide you with an assessment of the workload and the resource implications of the bill.

You may find it helpful to hold your questions to the end of the total presentation, because some of your questions may be answered by later parts of the presentation. To address Mr Tilson's question, we will of course be available for questioning after the presentation or at any time the committee wants us to appear.

Let me comment just very briefly on the housing policy in this province.

Rent control is really only one element in the development of the government's comprehensive housing strategy, together with the better use of government land for housing, improving the quality of life in public housing and the strategies to increase the supply of affordable housing.

Public consultation is under way or is planned in the near future in all of these areas. In addition, the government has established the Sewell commission to review the planning system. One of the things the Sewell commission is to look at is ways to allow for the speedier delivery of housing.

The development of housing policy is based on four fundamental principles: (1) that access to safe, secure and affordable housing suitable to people's need is a basic human right; (2) that housing is fundamental to individual and family wellbeing and the quality of life in communities in this province; (3) that housing contributes significantly to the prosperity and stability of the province's economy; (4) that the responsibility for the provision of housing is shared between all levels of government and all sectors of the economy in society.

As we look at rent regulation as a component of this comprehensive housing strategy, we have reviewed with you prior to your deliberations on Bill 4 the history of rent regulation in Ontario since 1975, and I am not proposing to go through that again. I am assuming you still have that information available to you.

During the last 15 years, we have had three systems of rent review, all of them based on the cost pass-through principle. The current act, the Residential Rent Regulation

Act, 1986, commonly called the RRR, covers virtually all privately owned rental units. The RRR was amended by Bill 4 earlier this year. That act will remain in place until the Rent Control Act, the RCA is proclaimed.

We have also during your deliberations on Bill 4 provided the committee with information on the private rental stock in Ontario. I just want to remind you of how significant it is in size. There are over one million—1,116,000—rental units, which are home to two million tenants. About 60% of these units are in complexes of seven or more units.

As Mr Tilson commented, we have had some changes in vacancy rates recently. We have had very low vacancy rates in rental housing over the last 15 years, but these rates have recently improved. The most recent CMHC Ontario vacancy rate is 2.2%, up from 1.4% last fall. This is a move in a very positive direction, but I think as we look at that number we have to recognize as well that 3% is usually what is reckoned to be a healthy vacancy rate. Also, there are differences in cities across the province.

Our housing stock is an aging stock, as most of it was built before the 1970s, and certainly the affordable housing stock is aging, as the newer units tend to be much higher in rent, especially where you have renting out of condos. I would comment generally that in our private rental stock, we have problems with availability, reflected in vacancy rates, with affordability and with the conditions of the stock. These are things we have tried to address with the development of Bill 121.

I want to move on now to deal with that bill. Christina is going to comment to you first on the legal structure of the bill to help you in an understanding of it. It will help you, I think, if you follow along with her comments in looking at page 4 of the handout.

Ms Sokulsky: My name is Christina Sokulsky. I am senior solicitor with the legal services branch, rent review section, Ministry of Housing.

I would like to comment briefly on the organization and structure of Bill 121. I would refer you to the handout that you have before you, and also if you have copies of the bill, there is a table of contents which makes it much easier to locate various sections and parts of the bill.

In brief, the bill is organized into four parts. Preceding the four parts are four sections dealing with definitions and applications of the act and exemptions from the act. There follow four parts dealing with rent control in part I, procedures in part II, rent registry in part III and a general part, part IV.

Part I, entitled "Rent Control," contains various provisions, such as provisions dealing with notice of rent requirements and notice of maximum rent in sections 7 to 9; maximum rent and maximum increases in sections 10 and 11; applications for above-guideline increases in sections 13 to 21; capital carry-forwards without application in section 22; applications to reduce rents in sections 23 to 28; the rent control guidelines in section 12; payment of illegal rent and illegal additional charges in sections 30 to 32; applications for determination of issues in section 33; compliance with standards in sections 34 to 41; failure to file information and separate charges in sections 42 to 45.

At the beginning of the part are provisions dealing with the rent that may be charged for a rental unit and when increases may be taken. Those provisions are in sections 5 and 6.

Part II, entitled "Procedure," contains procedural provisions relating to filing requirements, methods of giving notice, parties, making of applications and so forth in sections 46 to 55. Procedural rules respecting the hearing, pre-hearing and administrative review process are in sections 56 to 89, appeal rights in sections 90 and 91 and other procedural provisions in sections 92 and 93.

Part III, entitled "Rent Registry," obviously deals with the rent registry and contains the provisions respecting the requirements for filing statements of rent information in sections 94 to 101; calculation of maximum rent in sections 102 and 103; notices of rent information which are sent by the registrar to landlords and tenants in section 104, and miscellaneous matters relating to the registry in sections 105 and 106.

Part IV, entitled "General," contains a variety of provisions, including a definitions section in section 107; provisions respecting the administration of the act in section 108; duties of the minister in section 109; duties and appointment of the director, inspectors, registrar, rent officers and chief rent officer in sections 110 to 112 and sections 116 to 119. There are also provisions dealing with powers of entry by inspectors in sections 113 to 115. There is a prohibition against harassment of tenants in certain circumstances in section 120; fees for copies in section 122; offence provisions in sections 121 and 124; regulation-making authority in section 125; repeal provisions in sections 126 and 127, and transitional provisions in section 128.

In total, the bill has 130 sections and it replaces the Residential Rent Regulation Act, 1986. The short title of the act, as you will see from section 130, is the Rent Control Act, 1991. The act comes into force on proclamation by the Lieutenant Governor, as is seen in section 129.

I mentioned to you the table of contents which makes the bill certainly more accessible. It is easier to find one's way around the provisions. There has been an attempt to organize the statutes so that provisions dealing with a subject matter are all together and are appropriately titled. I would like to point out that, subject to some exceptions, applications made under the Residential Rent Regulation Act and the Residential Tenancies Act will proceed according to the legislation under which they were made if they were made by the requisite dates.

1110

Ms Parrish: I am the next in the lineup. My job this morning is to give you a very brief overview of Bill 121 and talk a little bit about some of the key provisions of the statute in some greater degree of detail. Essentially Bill 121, the proposed Rent Control Act, covers most private rental housing in Ontario. At a very basic level, it provides for an annual rent increase which is based on inflation and an allowance for capital plus the capacity to apply for up to 3% more in certain circumstances. It strengthens the connection between rent control and provisions for ade-

quate maintenance and it creates a modified administrative system for the administration of rent regulation which increases the capacity to have hearings.

One of the major features I thought I would turn to and discuss is the guideline system. The act, as has already been discussed by the members of the committee, creates two guidelines; one for large buildings described as seven or more residential units and one for small buildings which are the six and fewer.

Essentially what happens is that both buildings get the same allowance for capital, which is 2% rent increase for capital. The difference is that larger buildings do not get quite as much of an increase for operating expenses as the smaller buildings. In other words, the large buildings get a little bit less for operating cost increases and the smaller buildings get a little bit more.

The determination as to the amount that the operating costs should be going up is based on an index that used to be called the building operating cost index and is now called the rent control index. It looks at what it costs to run a residential building and tracks the changes in the costs in the residential building, either by looking at inflation or by looking at actual cost increases over time. So it simply says: What are the inflationary increases in superintendents' salaries, or what is the actual increase in municipal taxes across the province? It goes through a formula and creates an inflationary increase that is the basis of rent increases in Ontario. On top of that, the index is essentially averaged over three years to prevent unusual blips from influencing too much in one direction the rent increase or decreases.

This system, I think, might be best explained if I said, okay, what would have happened today in 1991 if this proposed system were in place? Essentially, the guideline in 1991 is 5.4% rent increase for all buildings in Ontario. If you took the proposal in Bill 121, imposed it in 1991 and assumed that the inflationary elements would be pretty much the same, small buildings would have a rent increase of 5.4%, essentially what they have now. The larger buildings would have a rent increase of about 4.6%. That would be the effect of the change in the formula.

The question does come up quite legitimately as to why the ministry moved down the proportion of money provided to large buildings for their operating cost. The indication is that the proportion of landlords' operating revenue compared to their rent has historically been lower than the amount provided in guideline increases and has tended to be in the 40% to 50% range over time.

We do in fact have a fairly recent study that shows that. However, most of these studies do tend to look at the larger buildings, the seven-plus buildings, and the differential was not as much that the overall costs of smaller buildings are less but as that the per-unit costs are less because there are fewer units. I am sure there will be more questions on this issue. I will be glad to respond to them because I know it is a complex and, to some degree, controversial issue.

I would like to turn very briefly to the issue of the overall cap. Essentially the system allows for a guideline increase, one for big buildings and one for small buildings,

and landlords can obtain that increase if they give proper notice to the tenants and do not have to come to the Ministry of Housing to ask for permission. However, landlords can also obtain increases above the guideline if they come to the Ministry of Housing for permission. Any increase above the guideline which the landlord can justify is capped or limited at 3% of the rent so the rent can never be more than the guideline plus 3%.

If I went back to my hypothetical example where I had the big buildings and the small buildings—for the small buildings, their increase would have 5.4%. They could get another 3%, and therefore could get no more than 8.4%. The large buildings could have received a guideline increase of 4.6% plus 3% for a total of 7.6%. So the cap is based on the combination of 3% plus whatever the guideline is for that year.

The purpose of the combination of the guideline and the cap is to provide protection to tenants and rent stability while leaving funds for capital and maintenance of rental stock in Ontario. The landlord, in obtaining any increase above the guideline up to the cap, is limited as to what the grounds are for application. Essentially, there are two situations in which a landlord can receive an increase above the guideline. The first is for something we call extraordinary operating costs and the second is for capital. I would like to address them briefly, separately.

First of all, extraordinary operating costs: landlords can apply for an increase above the guideline if they have experienced extraordinary operating cost increases for hydro, heat, water or municipal taxes. Those of you who were there during the Bill 4 hearings will find this somewhat familiar. It is essentially the same list as under Bill 4. These costs tend to vary more regionally, and municipal taxes in particular can be a fairly significant proportion of landlords' overall costs.

The second area the landlord can apply for increases for is in capital. What I would like to do is talk about the kinds of capital landlords could apply for in the fully mature rent control system, and then I would like to talk a little bit about the transitional provisions in the statute. The explanation is a little bit clearer if you divide those two things up.

Applications for capital in a fully mature rent control system are limited to two kinds. A landlord may apply for something which we call in the statute eligible capital. It is capital which is necessary to protect or restore the physical integrity of the building. It is necessary to comply with standards related to health, safety or the environment; to maintain plumbing, heating, mechanical, electrical, ventilation or air-conditioning systems; for access for disabled persons, or to increase energy conservation, and landlords may apply for this kind of capital.

1120

In addition, the landlord and a tenant can agree. The landlord can apply, in situations where the tenant consents, for capital improvements that do not meet any of those tests if the capital repair is in the tenant's own suite. So you may have the situation where the landlord and the tenant agree to have new carpeting, or replace all the existing kitchen cupboards that are adequate but old-fashioned

with new ones. If that occurs in the suite and the tenant agrees again, they can have these repairs done, even though they do not meet these other tests I have just told you about, ie, they are not necessary to restore physical integrity or whatever. Any capital repair is subject to the overall cap of 3% above guideline.

When landlords are making an application for capital and want an increase above the guideline, they must demonstrate that the 2% allowance they have already been given for capital in the guideline increase every year, in the year they have applied the 2% has been used for capital or is part of the overall capital application. In other words, the landlord must demonstrate that 5%, for example, if he wants 3% above guideline, is being expended on capital.

They must also, in the case of eligible capital, demonstrate that there is no neglect or lack of repair that has forced this particular capital to be done, and that if an item is being replaced, it needs to be replaced.

There are some special rules in the act that deal with the situation where the landlord makes a certain kind of repair and the combination of the 2% in the guideline and the 3% above the guideline is not sufficient to pay for the actual repair the landlord has made. In that situation, there is a provision for what is termed in the statute as carry-forward. The landlord may be in a situation where the cost of the repair is, say, 10% of the rent, and the act provides for a situation in which the landlord can carry forward the excess cost of the repair into a future year. If they are landlords of a large building, seven or more units, they have one year to carry forward. If they are landlords of a small building, six or fewer units, they may carry forward for two years, again reflecting the point that because there are fewer units in a small building the overall per-unit impact of certain capital repairs is greater, and the landlord is given a longer period of time to obtain rent increases to pay for the capital repairs.

I would like to return to the issue of transition capital, which is treated somewhat differently in the statute from capital in a fully mature rent control system. Transition capital is what the act calls capital expenditures substantially completed between January 1, 1990, and June 6, 1991. June 6, 1991 was the day Bill 121 was introduced.

In the case of transition capital, landlords do not have to demonstrate they need the eligibility test. In other words, this list of whether the capital is to protect or restore, or to meet certain standards, does not have to be satisfied. They do have to satisfy the test that the repair is not as a result of neglect, but they do not have to demonstrate the more onerous task that the capital is in fact necessary or meets certain tests, for example, enhanced energy conservation.

I would like to turn to the issue of enhanced maintenance provisions in the statute. The statute has significantly greater emphasis on maintenance, and there is a closer connection between rent penalties and maintenance and inadequate work orders. For instance, the same persons who levy a rent penalty will also make determinations as to whether standards are inadequate, unlike in the current system, where those decisions are made by separate bodies.

There is an ability for tenants to make applications for rent reduction due to inadequate maintenance, and there is also a system for outstanding work orders, that is, work orders in which the landlord has been given time to comply and has not complied. That is what we call an outstanding work order. Where a landlord has not complied with a work order, that could result in a situation where, until the landlord does comply, the tenant may find that he or she cannot take any rent increase until the work order is complied with.

The rent registry is continued in the current statute. As many members know, it has registered most larger building, seven-plus buildings. The act does provide for the registration of the four-to-six-unit buildings and rooming houses, and there are also provisions in the statute for the registration of one-to-three-unit buildings. If a landlord applied for an increase above the guideline, he or she would be required to register the rent at that time, but there would be no automatic registration of that group if it did not apply for an above-guideline increase, for example.

There is a new decision-making process in the statute: There is a first-level hearings system, with appeals of decisions to the courts based on matters of law only. There is the capacity to correct error and so on. Hearings will be provided on request by anyone, landlords or tenants. If not, there can be an administrative review system which may be appropriate in a situation where the only issue in contention is whether the heating bill has gone up, for example. If the landlord and tenants are not disputing that issue, they may wish to resolve their difference simply through administrative review. In fact, they may have no differences.

There are improved procedural provisions in the statutes, pre-hearing conferences, and so on, to resolve or clarify issues. Many of those were things that were asked for in consultation.

Last, there is a five-year exemption for new complexes, where the building permit is issued on or after June 6, 1991. When a tenant rents a unit, there must be notice to him or her that the unit is not subject to the protection of rent control. If the landlord does not give the tenant that notice, he or she may lose the exemption for that unit. If the landlord gives notice to the tenants, he or she must indicate how long they have the exemption so the tenants will know essentially what they are getting into, and the exemption dates from the time the first unit in the building is rented to five years later. It is from the first unit, and then you add five years.

There are a number of reasons for the exemption: to recognize that in a startup period in a new building there is a lot of shake-down time; that it is very difficult to determine the rents; that often the building is partially occupied and it is very difficult even to find out what would be appropriate and fair to all the parties; and to encourage the creation of new rental housing stock and the jobs, and so on, that go with that.

That is a brief overview. I should say that my colleague Scott Harcourt is going to take you through a few examples which, by giving you some examples, we hope will show you how some of the provisions of the statute work in a sort of practical sense. I know that just hearing about

them orally sometimes makes it difficult to see how they work, so Scott will give you some examples that will give you an overview of how some provisions in the statute work in a practical sense.

1130

Mr Harcourt: Mr Chair, members of the committee, what I am going to do is to elaborate on some of the material my colleague Colleen Parrish has presented. Specifically, I am going to provide examples of extraordinary operating costs, capital expenditures, and then I will briefly take you through the process for issuing a rent penalty order. I should mention that the examples I will be presenting are shown in the handout package, so you may want to follow along there. The material will also be shown on the overhead screen.

The first example is of extraordinary operating costs. In this example we are going to assume that the guideline is 5.4%. That is the guideline in existence for 1991. We are also going to assume that the gross potential rent for the residential complex, the total of all rent in the building for an entire year, is \$10,000, so what you can see in the examples are the amounts justified for the various categories: municipal taxes, hydro, water and heating.

Both extraordinary operating increases and decreases are shown. When making an application the landlord must present all costs for each of the four categories, and for each of the four categories the extraordinary operating cost test is undertaken. This is for the purpose of disregarding very minor fluctuations. The test involves whether the cost experienced by the landlord carries by more than 50% of the amount for the particular category which is allowed in the guideline.

For example, if the amount allowed in the guideline is 6% for municipal taxes, an extraordinary operating increase would occur if the landlord's actual increase is 9% or more, and an extraordinary operating cost decrease would occur if the landlord's actual increase is 3% or less. In this example we have an amount justified for municipal taxes of \$300; for hydro we have an amount of zero because it did not meet the test; water is shown as an extraordinary operating decrease of \$100, and an extraordinary operating increase for heating is shown for \$200. The total amount justified is \$400. Based on a gross potential rent of \$10,000, this relates to a 4% rent increase for the building.

What would the order state? The guideline allowed in the order will be 5.4%. The extraordinary operating cost allowed will be capped at 3%, because you can only have a maximum increase over the guideline of 3%. The landlord will lose the 1% and will be able to pass through the cost increase of 3% above the guideline, and the amount ordered in the guideline will be the guideline plus 3%, or 8.4%.

I should also note that there is no carry-forward for extraordinary operating costs, so it will not be carried forward to the future years. That only applies to capital expenditures.

I am now going to present two examples for capital expenditures, one for large buildings and one for small buildings. The amounts ordered for small and large buildings will

vary for two reasons. First of all, the guideline amount is different. Second, the carry-forward provisions are different.

Example 2 will show how carry-forward and the guideline is applied for large buildings. You will recall that large buildings are those with seven or more residential units. For a large building, the carry-forward is allowed for one year. The guideline amount is based on 50% of the rent control index as well as an amount of 2% for capital expenditures.

This example will assume that the guideline is 4.6% each year. This is the amount of the guideline that would apply in 1991 if the rent control index formula were applied as set out in the legislation. We are also going to assume that the landlord justifies an amount of 13% above the guideline, based on capital expenditures alone.

So what will the order state? First of all, the guideline amount will be reduced by 2%. This is the amount of the guideline which is allocated for capital expenditures, so in this particular rent control order the amount will be 2.6% for guidelines. The capital expenditure amount allowed will be 5%. It is the lesser of the total amount justified, which is 13%, and 5%, so the amount ordered will be 7.6% because you need to cap it at 3% above the guideline. The guideline being 4.6%, add 3% and you get 7.6%.

There was 13% justified; 5% was used for capital. There will also be 8% available for carry-forward, so in the carry-forward year the guideline again is reduced by 2%; and the capital expenditure which is allowed is 5%, so the amount which will be ordered in the carry-forward notice again will be 7.6%. After using the carry-forward amount, there will still be 3% allowed in excess of the carry-forward. This will not be allowed. The landlord will not be able to obtain rent increases on this amount. There is only one year of carry-forward allowed for large buildings.

If we look at the overhead, it shows schematically how the rent increases occur over the two years. In both the order year and the carry-forward year the landlord is allowed 7.6%; 10% of the 13% for capital is used, and then the remaining 3% will not be allowed for large buildings.

Mr Turnbull: I am sorry, I just do not understand this graph.

Mr Harcourt: Okay, this is what happens. Any time you have capital expenditures, you reduce the guideline by 2%. You justify 5% for capital to obtain a rent increase of 3% above the guideline amount, so if the guideline amount is 4.6%, you deduct 2% to get 2.6%. You allow 5% for capital expenditures for a total rent increase of 7.6%. Carry forward to the second year, and the amounts set out in the carry-forward notice would also be 7.6%. It is something a little bit similar to a phase-in, although the premise is a little different. But it is the carry-forward of the capital expenditure, so in year 2 you get the carry-forward of the capital expenditure for a large building. In smaller buildings it would be carry-forward for two years.

The Chair: Do you understand it now, Mr Turnbull?

Mr Turnbull: I know it is rubbish, but I understand it.

Mr Harcourt: In the third example, I am going to show how a carry-forward and rent increases are applied for a small building, one with six units or fewer. As I

mentioned before, carry-forward would be allowed for two years and the guideline amount is based on two thirds of the rent control index and 2% for caps.

Again we are going to assume that the guideline for 1991 is applied, and this would amount to 5.4% for small buildings. We are also going to assume, as we did in the previous example, that the landlord justifies 13% for rent increases above the guideline based on capital expenditures. So again, in the order year we will reduce the guideline by 2%, because that is the amount allowed for capital, and we have the guideline allowed of 3.4%. We allow 5% of the capital expenditures, to obtain a rent increase of 8.4%. Then the amount which is available is the 13% less the 5% used in the order year, so you have 8% available for carry-forward.

In the first carry-forward year, 2% is deducted from the guideline and 5% is allowed for capital, so the carry-forward notice will indicate again an 8.4% rent increase, and then there will be a second carry-forward year. In the first year we have used 5% for capital and in the second year we have used 5% for capital; 13% was justified, so for the second carry-forward year we have 3% remaining. For the second carry-forward, we have the guideline of 3.4% and the remaining 3% is carried forward, so the amount allowed in the carry-forward notice will be 6.4%.

In this case, if we look at the overhead again we can see schematically how the rent increases are applied. In each of the first two years we have applied 5% capital for an 8.4% rent increase. In the third year the remaining 3% is allowed and a fixed 0.4% rent increase is applied, so all of the 13%, justified for capital above the guideline, will be allowed for a small building. It has two carry-forward years.

Mr Turnbull: Could we possibly ask questions as we go along, because otherwise it is going to be much more difficult?

The Chair: Sure. I think we can allow one question per party.

Mr Turnbull: What is the rationale for only allowing a two-year carry-forward for the small building, and what is the rationale for the one-year carry-forward upon the large building?

1140

Mr Harcourt: The rationale for only the one- or two-year carry-forward is that it encourages landlords to plan their capital expenditures and carry their capital expenditures over several years; in other words, so that they do not undertake no capital expenditures over a number of years, neglect their property, then all of a sudden, go for very large rent increases based on major capital expenditures. This will encourage them to plan and carry out their capital expenditures on a regular basis.

Mr Turnbull: All right, let me pose a hypothetical situation: You know that your roof is approaching the end of its lifespan, but different roofs last different times. You may have a roof that does not last as long as another one. You have planned that maybe three or four years out you are going to replace the roof, but you spring a bad leak in the roof and the roofer comes in and says: "I am sorry. The

only sensible thing is to replace the roof." But you have had a large increase in municipal taxes in that particular year. You are just out of luck.

Mr Harcourt: Certainly, the 5% above the cap or the 3% above the guideline will not pay for all capital expenditures. If you have a very major capital expenditure, it is only meant to pay for part of it. Some of it will have to be taken out of the landlord's own funds.

Mr Turnbull: What happens if he is already losing money on this property? How do you get the money to him?

Mr Harcourt: The 2% which is also allowed in the guideline for capital. In some situations, it will not be enough to meet all the needs of the landlords on an individual basis.

Mr Turnbull: Are there experts in the Ministry of Housing on the realistic cost of repairing buildings, I mean, people who have hands-on experience?

Mr Harcourt: The 2% allowed in the guideline, plus the 3% allowed above the guideline for capital expenditures and for extraordinary operating costs.

Mr Turnbull: I do not think that was the answer to my question.

Mr Tilson: You can do half a roof a year.

Mr Harcourt: It will basically cover over a 10-year period an amount of \$7 billion in capital repairs. The \$4 billion to \$7 billion is the amount we anticipate will be needed for the repair of buildings over the next ten years.

Mr Turnbull: Yes, I am aware of that. So you are saying that this adjustment for inflation presumably will allow that amount of capital expenditure. But there is a skew in the whole statistics in the respect that some buildings have had substantial amounts of work done to them already and already have higher rents, and others have had much less work. There is no differentiation in that. What happens in these situations?

Mr Harcourt: That is correct. It will not pay for all the needs of every landlord. I can only acknowledge that.

Mr Turnbull: And if the landlord is already losing money on the building, that is just tough?

Mr Harcourt: I can only say that it will meet the overall needs of the province. It will not meet the needs of every individual landlord.

Mr Tilson: If the situation Mr Turnbull described occurs, is that then neglect? Because several capital expenditures are required under the guidelines that are being put forward. For whatever reason, whether it is an old building or whatever, you can do all or part of a particular capital expenditure, but there may be another capital expenditure that is required—a parking garage, bricks falling off. Is that then neglect, which would then result in rents being reduced?

Mr Harcourt: Neglect is for when a capital expenditure is not recognized. But in certain situations, yes, I will acknowledge that neglect will be found.

Mr Tilson: My understanding is that if you make an application for the type of thing we are talking about right

now and you do not have enough to do something else, a tenant objects or files something and says nothing has been done. The arbitrator or hearing officer or whatever you call him can say that is neglect and the rent is not increased. It is reduced because there is neglect on something else that you cannot afford on this graph that you are putting forward. Has the ministry thought out that possible scenario, given the large number of buildings throughout the province that are quite old?

Ms Beaumont: If I can respond to that, Mr Tilson, I think we have to go back to the kind of comment Ms Poole made in her comments earlier. That is the need for balance and the need for reconciling different objectives, one of the objectives being the certainty around rent levels and the protection from very large and unexpected rent increases. Another objective is the need to maintain and repair the buildings.

The provision of a cap on rent increases and the provision of limits to the amount of increase that can be provided for in the system is the way we have established in this legislation to provide some certainty to the tenant community and to the landlord community. In any system, whether it be with respect to rents or any other kind of matter of public policy in any system where one has a cap, there are certainly going to be situations where that cap causes problems in individual situations.

The Chair: I think with the number of questions that we are having and the interest—and we are just starting—I cannot see us adjourning at 12:15 or even at 12:30, so I am going to suggest that we sit through the lunch hour, at least until one o'clock. If the committee wishes, we will have some sandwiches brought in.

Mr Mammoliti: I know I have to run, Mr Chairman.

Mr Duignan: So do I.

The Chair: What does that mean? Does that mean we are adjourning at 12:15 or 12:30 or one o'clock?

Mr Duignan: Yes.

The Chair: I gave three times.

Mr Brown: All of the above.

Mr Mammoliti: My understanding was a quarter after 12.

The Chair: We are not going to make it.

Ms Poole: Would members agree to 12:30? That would at least give us a start.

Mr Mammoliti: I think I can—

The Chair: Okay. We are going to have the Liberals start their first round of questions and if we have time we will have a second round.

Mr Mammoliti: I am not sure whether the presenters have finished.

The Chair: No, they are not finished, and that is why I interrupted the committee, to tell the committee members that the way things are going, we are not going to get all our work done based on the time that was allotted.

Mr Mammoliti: Are you still allowing questions right now?

The Chair: Yes, because the officials will not be with us this afternoon. We will be hearing presenters.

Ms Poole: This is one of the most ludicrous things I have seen in all the days I have been elected a member. I talked earlier about complexity, and I also talked about balance, but please do not misconstrue my words. This is utterly bizarre. If you think one tenant or one landlord in the province is going to understand how this works, it is absolutely crazy.

I just took that second example you gave where the landlord has spent 13% above the guideline on capital repairs. I have calculated what landlords would get as a rent increase if they did nothing in the building and I have calculated what they are going to get over the two years if they did 13% above the guideline. If the landlord does not do any repairs whatsoever, he would get 4.6% the first year and 4.6% the second year, making a total of 9.2%.

If the landlord spent 13%, on the other hand, that landlord, because he did not do additional repairs over and above the 2% allocated in the guideline—he did not offset that—it is reduced, to 2.6%. Then the landlord gets an additional 3%, making 5.6%, and allowed to carry that over one year, an additional 5.6%, which is 11.2% over two years. Are you telling me that landlord who has spent 13% is going to get 2% of that back over and above what he would have done if he had not done a thing above the guideline and that this is supposed to be an incentive to preserve our aging housing stock? Give me a break. I would like you to show me where I am wrong.

Ms Parrish: I think perhaps we have given you an explanation which is a little bit more complicated than in fact the principle behind the bill. I should say actually the calculation is incorrect. The landlord in that example would get 15.2% over two years: 7.6% plus 7.6%.

1150

The Chair: Why do we not have a graph that would show that for this? If we cannot do it now, we can maybe have it before we leave, because I think this is going to be a great concern of members of the committee.

Ms Parrish: If I can just say it in the simplest possible way, essentially what happens is that the landlord gets 3% above the guideline. So if the guideline is 4%, you add 3% and they get 7%. If in fact the amount of the capital repair they have had in year one is more than 7%, then the next year they can get more again. So in year one they got, say, 7%—the guideline plus 3%. Then in year two they get the guideline plus 3% again. If they were a small building, the third year they would get the guideline plus 3% again.

Essentially you just take the guideline, whatever it is—this year it is 5.4%—and you add 3%. If the landlord has more costs than are eaten up in the first year by the 3%, essentially you just add another 3% the next year. In your example, it is true that the landlord gets the guideline increase and essentially what you get is 3% more. So you just add 3% to the guideline, and that is the number.

The calculation we were showing you is essentially a calculation designed to ensure that the 2% the landlord already got in the guideline for capital repairs is expended for capital repairs, because you do not want to be in the

situation where the landlord does not spend the 2% he already got for capital repairs and then wants more. It is just a method of saying essentially, “Mr or Ms Landlord, if you want to get this 3% above the guideline for capital repairs, you better show that you have spent the 2% or that the 2% we already gave you is going to be expended on this roof or this garage, or whatever.”

At a sort of basic level, essentially you just add 3%. This calculation is a method of proof more than a method of calculation. I think I take the Chair’s view that perhaps a better graph might be of some assistance to the committee. We will go back and work on that.

Ms Poole: I have one brief clarification. What you are saying is that if landlords want 3% on capital they have to spend 5%. Is that correct?

Ms Parrish: They have to prove it, yes.

Ms Poole: They have to prove they have spent 5%.

Ms Parrish: Yes.

Ms Poole: So if a landlord spent 6%, for instance, in one year on capital, that landlord would get 2% over and above the guideline back total for the two years.

Ms Parrish: Yes.

Ms Poole: So in that case they do not get the guideline plus 3%.

Ms Parrish: They can only get what they spent. If they did not spend the guideline plus 3% worth of capital, then they cannot get the full 3%.

Ms Poole: But they cannot get back what they have spent, because if they have spent—

The Chair: We are going to have to move along to Mr Mahoney and Mr Brown or they will not have time for their questions.

Mr Mahoney: Are you limiting us to one question?

The Chair: I am trying to do it by time. We are wrapping up at 12:30, so I am trying to give everybody equal time. That is all.

Mr Mahoney: The 2% does not have to be justified in the normal guideline unless the landlord applies for the additional 3%.

Ms Parrish: That is correct.

Mr Mahoney: That would seem to me to be a disincentive to spend anything over and above it, because there is always a chance, from what you are saying, that they could lose that 2%. It really seems to me to be backward. There is no requirement to justify any capital expenditure of the 2% that is included in the guideline unless you spend more, and then if you spend more you risk losing the 2%.

Ms Parrish: It is not entirely the case that there is no provision in the statute, because there are the provisions that members have alluded to that say you must have adequate maintenance. If you do not, you run the risk that there will be an application that your maintenance is inadequate.

Mr Mahoney: We are not talking about maintenance; we are talking about capital expenditure. You are jeopardizing the 2% that is built into the guideline by actually making application for the additional 3%. There is the possibility that

you could not only be turned down for the 3%, but ultimately have your 2% taken away. So you may be better off to stick your head in the sand, shut your mouth, take the guideline and do not spend the capital repair money to get a reduction. You could.

Ms Parrish: I am not sure if that is a question.

Mr Mahoney: It is sure going to be a question the first time it happens, let me tell you.

To go away from capital and go back to costs being passed on, I have got to ask first of all if this building is in Ontario, because we have a zero increase for hydro and a reduction in water costs. That has got to be someplace I want to move to. Outstanding. It is Buffalo. Irv Weinstein. All right.

Ms Parrish: May I say I hope you do not. Stay with us here in Ontario.

Mr Mahoney: I will. What concerns me here is if the reported rumours of a 44% increase in hydro costs are true, you are saying that if we are to factor that in here and have a 44% increase in the hydro costs, there would be no possible way of recovering those kinds of costs that are driven by, I believe the words you used were "public policy." Public policy drives the cost of hydro up 44% and we tell the landlord, "That's too bad." I guess what comes out of that is that the tenant now gets protected under this system. Public policy drives up the cost. The home owner does not get any kind of protection from that system, never mind the landlord.

How do you justify having something that is in the public policy realm pass on these horrendous costs to anybody, whether it is a home owner or a landlord, and yet there is some sort of magic—is that not an incentive to sell your house and rent?

Ms Parrish: The response I would give to that is that historically extraordinary operating cost increases among those people who have applied for them have averaged less than 1% of rent increases. It is quite difficult to imagine a situation where you would have consistently large numbers, and that is because even though you may have large increases, these are still relatively small proportions of the overall costs. That has been the case historically in the old system, even where landlords could apply for 13 things and not just four things. I guess the reason this seemed a reasonable amount was that historically it has simply not been the case, and that has even been the case during periods of relatively high fuel oil increases.

Mr Mahoney: I am not asking you to justify whether or not Hydro has historically increased its fees. We know we are looking at massive increases in the cost of hydro-electricity in this province. We know that is coming down the pipe. We also know you are not going to see a reduction in any urban community in Ontario on the cost of water. The realistic example should be more like a \$300 increase in municipal taxes, at least a \$300 increase in hydro and at least a \$100 increase in water.

In former lives I have played a game called maximizing and minimizing. If you want to make it sound like it is not so bad, you minimize the damage to the client, the prospect, whatever. If you want to get them excited, you

maximize the benefits. It seems to me you are minimizing it by saying no hydro increase is justified and there is an actual reduction in water. That is just not reality.

1200

If you take the figures of a \$300 increase in hydro and a \$100 increase in water, which is probably not reality either but at least it is more realistic, you are looking at \$900 increase in those costs, which is a 9% increase in costs that nobody, neither the tenant nor the landlord, has any control over. They are simply passed on by public policy. Therefore, as a result of public policy, you are saying this system says: "Okay, you can have 3%. You're going to have to bury 6% somewhere." As a home owner, I would love that in my situation. Can you do it?

Ms Parrish: I think you are forgetting one important feature about what the extraordinary operating cost increase is. The guideline already picks up the fact that taxes will go up 10% or hydro will go up 44% and it will factor that into the base increase. You may have a situation that because water is going up a lot or taxes are going up a lot, that guideline will go up to a higher level. It could be 5.8% or 6.3%.

What the extraordinary operating cost increase is measuring is not whether hydro goes up 44% across the province, which will be picked up in the guideline increase, but whether that particular landlord, for some reason unique to his or her circumstances, is getting more. What the extraordinary operating cost index increase does is say that across Ontario taxes went up 10% but for some reason this landlord experienced a tax increase of 15% or 18%. I do not know why. Maybe it was just municipal, an anomaly in that municipality.

It is not saying what is the absolute increase. It is saying, is this particular landlord in a situation where his or her increase is anomalous compared to everybody else's? If everybody goes up 44%, that will get picked up in the guideline, but if landlord A is in the situation where his or her increase was 80%, then the extraordinary operating cost plugs in at that time.

Mr Brown: On that matter I was interested, and I think most members were interested, in the energy conservation and what I see as being something that all of us in Ontario, and probably in the world, would be concerned with in the 1990s, energy conservation and the Minister of Energy's approach here. Because with the cap the way it is, if you are in a building on which you obviously should be spending money to be more energy-efficient, you are going to be caught in a catch-22. If your building has too high an electrical cost or whatever—maybe it is oil—but if it is electrical and disproportionate, you are never going to be able to spend the money to fix it because you have got this 8% cap. You have got 3% you are playing with all the time. I guess the 3% cap is really what we are talking about. There is no way to do it probably.

I am really having difficulty in understanding how the energy-efficiency component is going to work within that 3% flexibility. I think it is going to be virtually impossible. I would like to know if the ministry could table the Ministry of Energy's comments on your rent control document. I

would like to know what the Ministry of Energy said when you put your document out for consultation. What did they say about this? What was their view towards the rent control? What input did they have? Frankly, I do not see any and I would just like, for members' knowledge, to know that.

The Chair: Any questions from the government members? Seeing none—

Mr Turnbull: Excuse me, could we have an answer to what has just been asked?

Mr Mahoney: That is a very good question.

The Chair: I thought it was a request for information and I thought I saw acknowledgement that the information was coming. I am sorry. Maybe I missed something.

Ms Parrish: Obviously, you know we cannot disclose cabinet documents.

Mr Mahoney: Can I ask for a clarification on something?

The Chair: Certainly.

Mr Mahoney: I believe I was just told that a massive increase in some utility, whichever, would be picked up in the guideline. I thought the guideline was set at 5.4% this year and there is a 3% allotment, so that if I used my example, which would increase those EOCs by 9%, then if you were to cover all of the extraordinary operating cost, you would require the guideline plus the extraordinary operating cost over and above the guideline, which would be 9%. You would require 14.4%, but in reality what you are getting is 8.4% because 3% is the cap. Therefore, it was not covered in the guideline at all. For the increased cost of 9% in EOCs over and above the guideline, you would only allow for one third of that cost to be picked up and the landlord would have to eat the other 6%.

Ms Beaumont: The guideline is recalculated annually based on past experience.

Mr Mahoney: I am talking about this year's. We know what this year's is. We know what next year's is, do we not? Is it not 4.6% next year?

Ms Parrish: No, the guideline has not yet been announced for 1992.

Mr Mahoney: Right, so it is 5.4% for this year. We know that. So you are telling me that they will adjust the guideline appropriately if we get hit with a 44% cost of hydro? Are you telling tenants that?

Ms Beaumont: The guideline is calculated based on a whole series of factors. Hydro is one of those. The guideline, though, is also based on three years. It is based on the floating three-year experience of costs. It is recalculated annually. There is a provision in the current legislation which would be carried into this legislation for the guideline to be announced, before the end of August every year, for the coming year.

Mr Mahoney: Are you going to do that this year? You cannot do that before the end of August this year.

Ms Beaumont: That is the provision in the act.

Mr Brown: Could I have an answer to my question? Are you going to provide the information from the Ministry of Energy or not? What is going on?

Ms Beaumont: We can provide you with the comments the Ministry of Energy made. We can speak to our colleagues in the Ministry of Energy on the comments they made on the proposed legislation. We cannot provide you with any comments they made through cabinet process.

Mr Brown: I am not asking for that. I am asking for the comments they made in response in public—

Ms Beaumont: They were asked to comment on the proposed legislation.

The Chair: I see interest in a second round of questions.

Mr Tilson: I have a question just following along with what Mr Brown was saying. If I had a capital expenditure for conservation and I go through the whole process and I am given whatever the legislation allows, whether I am a small building or a large building, and then as a result of the energy conservation there is a saving in the cost of the building, does that then qualify for a rent reduction?

Ms Parrish: It might. It would depend on the factual circumstances.

Mr Tilson: Let's say heat.

Ms Parrish: It would depend on whether it made the test or not.

Mr Tilson: Would it make the test?

Ms Parrish: It would depend on the amount the heat went down, whether or not it was an extraordinary decrease.

Mr Tilson: Assuming I am doing the type of capital expenditure Mr Brown is suggesting, you do not do those types of capital expenditures unless you are making substantial savings, so if there are substantial savings along the line of the comments Mr Brown was making, am I correct that then the very next year a tenant could apply and say: "You've made substantial savings in your administration of the building because of your energy conservation. We want a rent reduction."

Ms Parrish: Again, it would depend on the factual circumstances. It may very well be that people will experience absolute savings. What they may simply find is that they will prevent themselves from experiencing substantial increases. I am not trying to avoid your question; I am simply saying that it would be a matter of fact. It is potentially possible that in the right combination of circumstances they could have an absolute decrease and that they could meet the test, which is that they have to have a significant decrease, and also that the tenants applied. But you would have to have all those things occur, not just a situation where the landlord was avoiding substantial increases in the future by, for example, switching over to oil or insulating the building or whatever. It really does depend on the factual circumstances.

Mr Tilson: I can tell you that our party is as interested as the Liberal Party is on the whole subject of energy conservation, because that is something the government has been talking about. The Minister of Energy spent a

great deal of time on that subject. I echo Mr Brown: I hope we can have some further information on this whole subject and on the issue I just raised, because I can tell you any landlord with any common sense would not make a capital expenditure for energy savings only to realize, to use Mr Mahoney's example, that the risk is there that there would be a rent reduction. I think we should canvass that whole subject.

1210

Mr Turnbull: Just following on that situation, and this is something I raised in the House on second reading of this bill, it seems to me the potential exists that somebody may put in energy conservation measures in a building, lose money beyond which he can claim back because it is beyond the amounts of money that are allowable under the guidelines, and then in addition to that could have a reduction in the rent. It seems to me a total disincentive to work with any energy conservation measures and it seems to be totally in conflict with what the Ministry of Energy is trying to achieve, its stated goals. Is that a correct statement, that such a situation could happen?

Ms Parrish: I would have to give the same answer I gave before, which was that you would have to have a situation in which there was an absolute decrease rather than just a—

Mr Turnbull: Yes, I understand that, but I am saying my scenario could occur, right?

Ms Parrish: It is always a possibility. You can always design a scenario that could occur.

Mr Turnbull: That sounds like a great idea.

Ms Beaumont: I just want to return to this question that was raised before. If you have estimated the amount of capital expenditures you are going to allow over the next seven years, I think it was said, to be \$7 billion—or is it the next 10 years?

Ms Parrish: The next 10 years.

Ms Beaumont: From \$4 billion to \$7 billion.

Mr Turnbull: Okay, and the estimates we heard in Bill 4 were that it was going to be \$7 billion to \$10 billion that we would need, if I remember correctly.

Ms Beaumont: I think you heard a variety of estimates from a variety of sources during deliberations on Bill 4. The estimates the ministry prepared are based on a study that was done in the early 1980s, with some adjustment of those figures to the present time. The figures you heard presented during Bill 4 that you are referring to, I think, are the figures from the Fair Rental Policy Organization of Ontario, which had taken the same numbers and made a further adjustment on our already adjusted numbers.

Mr Turnbull: Within that \$7 billion, we know that a substantial amount is clustered in those buildings which have not had major renovations to them so far. Yet the increases, the capital allowances, are spread right across the whole of the rental housing stock. How do you justify the fact that you are giving it in areas where they have already got all their capital expenditures through and there are other buildings where they will not be able to get

enough capital expenditures through because it is skewed? Or put another way, it should be skewed and it is not.

Ms Beaumont: We have taken those figures of the \$4 billion to \$7 billion that are required and we have done estimates that would show that the guideline itself plus the potential for increases above guideline for capital can produce, in the gross sense, sufficient money in the system to pay for the repair of buildings. That is not to say that in particular circumstances in particular buildings, where you have a situation with a cap, there will not in fact be the potential for the landlord not being able to get the money out of the system that he may need.

But that then speaks to two issues. One is the issue of the need for planning of expenditures over a period of time. That is something that has been reinforced by both the landlord and tenant community over time. There is also the question that, when older buildings and buildings in need of major repair are acquired by new landlords, this should be taken into account in the purchase price.

The Chair: I need some help from the committee. At the rate we are going, we are going to go right to 12:30 and maybe beyond with just questions, which means the ministry presentation will not be completed.

Mr Drainville: How much more time does the ministry staff need?

Ms Beaumont: We need 15 minutes.

Mr Drainville: I suggest we continue.

Ms Poole: I agree. I think the ministry should continue. However, I have 14 questions remaining which I have not started on, so I was going to suggest next Wednesday, August 7. We have nothing confirmed for appointments past 4:15, which would take us to 4:30.

The Chair: We are leaving for Sudbury next Wednesday afternoon.

Interjection: Do you want to come to Sudbury with us?

Ms Beaumont: No.

Ms Parrish: I actually am going to Sudbury.

Mr Mahoney: Perfect.

Ms Poole: We can sit with you on the plane. I think we should reschedule them, though, whenever.

The Chair: Yes. I think we will let the ministry officials finish their presentation, and the clerk and I will find a suitable opportunity for you to come back, even if it is over the lunch-hour. We will have lunch brought in.

Ms Beaumont: Staff will continue with the presentation. I think we are now at page 14 of the handouts. We have got to the maintenance area.

Mr Harcourt: Okay. Protecting tenants from high rent increases and protection of tenants from inadequate maintenance are the two central provisions reflected in the legislation. The legislation deals with compliance with standards. It reinforces the role of municipalities in enforcing property standards bylaws by requiring compliance with work orders which are issued and forwarded to the Ministry of Housing.

There is also a parallel process, in compliance with work orders which are issued by the province, where the provincial standard applies. In both of these cases, the result is a rent penalty order. Example 4 deals with the process for issuing a rent penalty order when there is non-compliance with a work order.

I should note that the ministry does not get involved until the period of compliance has expired for a particular order. For example, if a work order is given by the city of Toronto and the landlord has 60 days in order to make the repair, the ministry will not get involved until after that 60 days has passed. At this point the ministry will issue a notice of possible rent penalty. The notice of possible rent penalty can be rescinded, but only if there is compliance with the work order. In other words, it cannot be challenged on the terms of the work order at all.

The rent penalty order then can be issued 30 days following the issuance of the notice of possible rent penalty. When the rent penalty is issued, it will continue until the landlord establishes compliance. While the rent penalty is in effect, guideline increases cannot be taken, nor can notices of rent increase be given. This will eliminate the confusion where a tenant receives a notice of rent increase when there is a rent penalty and does not know whether to pay it or not. Any notices of rent increase which are given by a landlord when the rent penalty is in effect will be voided.

What I wish to stress about the process is that it is much more streamlined and expeditious than in the previous legislation, and that the onus is much more on the landlord to demonstrate compliance, not upon the tenant to prove that there is non-compliance. It is also much more automatic in nature. For example, it is no longer necessary to do the "substantial" test. Under the previous legislation, there was the test that there had to be substantial non-compliance with a standard. That no longer applies. Any work order will be involved.

Just before closing, I should also mention that the rent penalty order is only one side of the maintenance issue in the legislation. The legislation also provides for tenant applications on the basis of inadequate maintenance. In this case it is also being strengthened. Rent increases can be disallowed or rent increases can be actually reduced if it is severe enough.

1220

Mr Glass: My name is Bob Glass. I am the executive director of rent review programs. I would like to present the potential administrative workload and financial impacts of Bill 121, and more specifically, I would like to review five areas. I would like to talk about the effects of the proposed legislation on applications received by our offices, its effects on organization, its effects on client services, the implications for the rent registry, and finally the overall budget for rent control. The figures I will present are our best estimates based on the legislation as proposed.

In terms of application resolution, we have an overhead, and I believe there are materials in your packages. Currently, rent review services reviews about 9,000 appli-

cations annually. We have broken these down on the chart in terms of the type of application.

We have analysed Bill 121 in terms of our current experience with the Residential Rent Regulation Act, and we estimate that we will be receiving more applications; in total, about 12,400. But there will be some significant differences in the applications themselves. Specifically, we expect more tenant applications for rent reductions as a result of inadequate maintenance. We expect more applications for capital improvements. However, the applications themselves will be for smaller increases than is currently the case. There will be no applications for financial-related transactions. There will be more applications for predetermination of eligible or ineligible capital improvements. There will be significant activity around the issuing of rent penalties for maintenance neglect.

Finally, about 22% of our applications are currently appealed to the Rent Review Hearings Board. There is no appeal mechanism proposed in Bill 121, except to the court on matters of law.

I would like to highlight some administrative issues we expect during the transition period, as we move from rent review to rent control.

During the first two to three years after the introduction of rent control, the Rent Review Hearings Board will continue its operations. During this time, the hearings board will complete a backlog of about 1,200 appeals that it has on hand and will hear any outstanding appeals carried over from the current legislation, the Residential Rent Regulation Amendment Act. Also during this period rent control will have to deal with an estimated 2,000 applications for capital work done between January 1, 1990, and June 6, 1991, as was explained in Colleen's presentation. Finally, the Residential Rental Standards Board will have to wrap up work orders and complaints that it has received prior to the proclamation of the new legislation. In short, there will be a considerable overlap between rent review and rent control.

A final note on applications: Bill 121 provides landlords and tenants the opportunity to have a hearing. If either party does not request a hearing, applications are administratively reviewed. Based on our experience with the Residential Tenancy Commission, which pre-dated the current legislation, we expect the percentages illustrated on the chart of hearings and administrative reviews to be held. In terms of organization, rent review currently consists of 584 staff and order-in-council appointments in three distinct organizations, with staffing as illustrated on the second overhead. The salient changes from rent review to rent control will require that we develop expertise in two areas, because the proposed organization will consist of one branch within the Ministry of Housing. The two areas are holding hearings under the Statutory Powers Procedure Act and evaluating maintenance-related applications.

Work has already begun in jointly orienting staff in all three current organizations with each other's work. Cross appointments were approved for three of our staff to join the hearings board as board members recently, and six more positions for board members are being advertised as

developmental opportunities. More cross appointments at an administrative level are being planned.

Over 170 of our field and headquarters staff are currently engaged in an intensive review of the operational and policy and administrative requirements of the proposed legislation. It would be our intention to fold the standards board and hearings board into rent review programs. The extended transition period would allow us to do this comfortably without staff disruption. A transition team involving management staff and staff from the Ontario Public Service Employees Union representatives has been in place since the beginning of July and is looking at the staffing implications.

Rent review services currently handles over 650,000 calls per annum, making it one of the largest information services in the provincial government, and there is a trend line. About 54% of our calls are requests for information on landlord and tenant matters, not rent review, and under rent control we would expect at least as many calls.

We have planned some steps to strengthen our client services program. We will have to rewrite most of our literature and forms and procedures manuals, and we will do this in plain language this time. We are reviewing our hours of services. Hearings would be held evenings and weekends, where required. We started an after-hours telephone service about a year ago, and it receives about 2,000 calls per month. Based on its success, we are investigating extending our local office hours generally. Last, we will continue our educational grants, as landlords and tenants will require significant orientation to the new program.

The registry, as Colleen pointed out, will build on the current registry, as proposed under the new law. There are 1,116,000 rental units in the province. The majority of these are in larger buildings and they have already registered their rents. A number of smaller buildings have also registered their rents with us since 1987 voluntarily or they have come in for rent review. All told, the registry contains information on 691,000 units across the province.

The proposed legislation requires that we continue to register and establish legal maximum rents for buildings at size four to six units. That is about 240,000 units in all. This will be done during the transition period from rent review to rent control. It will generate about 12,000 rent rebate applications across the province, based on previous experience.

The balance of units, about 170,000 of them in buildings with one, two or three units, will be added gradually, either as landlords apply for rent increase above guidelines or when we investigate rents at the tenants' request, as is provided under that legislation.

The current budget for all current activities related to rent review is \$33.5 million. Our estimates of activity under Bill 121, that is, client service requests and the registry, remain essentially the same. A hearings-based system requires somewhat more time to process an application than an administrative review, and there will be more ap-

plications. On the other hand, eliminating a second level of review, ie, the hearings board, eliminates one whole organization. At this time we expect a slight decrease in the total costs of the program at maturity.

A final word, on the transition period from rent review to rent control: As I indicated during the presentation, after the proclamation of Bill 121 the hearings board will continue to operate, the standards board will deal with any outstanding work and there will be a short period of increased tenant rebate activity when the four- to six-unit buildings are registered.

Finally, there would be a series of one-time costs associated with rewriting our information materials, staff training and reprogramming our internal software for rent review calculations. The exact cost will depend very much on the final form of Bill 121, obviously, and the timing of its proclamation.

Thank you very much for the opportunity to present this material.

Ms Beaumont: That concludes the presentation from the ministry. I know your time has expired, and we would be available at the call of the committee to come back and answer any questions.

Ms Poole: I have a lot of questions, but there is one I want to ask right now. You said that at maturity there would be a slight reduction in staffing. When is the estimate date for maturity?

Mr Glass: It would be in about year three. We expect two things to happen. First, there is the transitional issue that I described, the transitional problem as we wrap up old applications and move into new ones. The second issue is the issue of hearings. You noted that there would be requests for a lot of hearings. Our experience with the Residential Tenancy Commission was that initially when the Residential Tenancies Act was proclaimed, there were a lot of requests for hearings. People very quickly found out that their problems with landlord and tenant matters could not be dealt with. They were not subject to rent review and rent control, and the number of hearings, the percentage of applications that came to hearings, then decreased. So it is about year three, we think.

Ms Poole: Does year three start when the legislation comes into effect in the spring of 1992 or does it start when it was introduced in June 1991?

Mr Glass: It would be after proclamation, whenever that is.

Ms Poole: Basically you are talking about four years from now, fortuitously probably after the next election, that this major reduction is going to occur.

Mr Glass: Frankly, I had not thought of the timing.

Ms Poole: I am sure somebody did.

Mr Glass: I am not sure about the timing of the next election, I am afraid.

The committee recessed at 1231.

AFTERNOON SITTING

The committee resumed at 1405.

The Vice-Chair: Good afternoon, ladies and gentlemen. This afternoon the work of the committee is to conduct public hearings on Bill 121. We have 15 presenters this afternoon, which is a very tight schedule, and the committee has decided we will start whether there is a quorum of all three parties or not. I expect the members to be along shortly. The members did not get away from the committee until a half-hour late this morning, so that may explain some of our difficulty. All testimony is, of course, on Hansard and members have a chance to review that.

The procedure will be that we provide each presenter with 15 minutes. That presenter has the opportunity to speak for the entire 15 minutes or any portion thereof, and then the members will ask questions, if they so wish, for the balance of the time. We will have to be fairly strict with the time allocation or we will not be able to hear the 15 presenters this afternoon.

DON'T EMPTY MIMICO APARTMENTS

The Vice-Chair: With that, I will start the presentations with Richard Saliwonzky, who represents Don't Empty Mimico Apartments. Introduce yourself and the group you represent, for the purposes of our Hansard recordings.

Mr Saliwonzky: My name is Richard Saliwonzky and I am the spokesperson for DEMA, which stands for Don't Empty Mimico Apartments. DEMA is a community organization of working-class tenants living in affordable apartment buildings in southern Etobicoke. One of our main objectives is to preserve the stock of affordable rental apartments in our community. Many of us have been a part of the Mimico community for a number of years and have a stake in its future. The main objectives of DEMA are the retention of affordable rental homes on the Mimico strip and the improvement of property maintenance in the community. DEMA is pleased with the proposed Rent Control Act, but we feel it does not go far enough in protecting the affordable rental housing stock. We also feel it does not go far enough in establishing adequate enforcement and incentives for landlords to maintain their buildings. I would like to begin with the points about the proposed rent control act that DEMA supports.

DEMA supports the capping of maximum legal rents, the yearly guideline plus an extra 3% each year. This means tenants will no longer face increases of 20% to 30% in one year. The second thing we support is that landlords can no longer get increases to pay back the money they borrowed to buy a building, or because they are not making enough profit. A landlord will no longer have the option of increasing the rent on the basis of changes in interest rates, or financial or economic loss. This measure is important for tenants because it means tenants will no longer bear the brunt of a landlord's speculation or financial mismanagement. A landlord will also not be able to get increases for the equalization of similar units in the building, hardship relief, below-market rents, or maintenance.

This change will mean tenants do not have to pay increased rent so the landlord can make an even bigger profit. Another positive change for tenants is that the legal rent can be reduced if maintenance and repairs are inadequate. However, landlords will be able to get increases of between 8% and 10% a year under this proposed Rent Control Act. Tenants' incomes will unlikely increase by that amount. Low-income tenants and tenants who are on fixed incomes, such as seniors and social assistance recipients, will not be able to keep up with these increases. This will cause erosion of affordable rental housing which will cause even more economic eviction in south Etobicoke.

Another major concern we have about this proposed legislation is that the bill does not go far enough in terms of maintenance and repairs. Sections 36 and 37 set out maintenance standards and procedures for inspection which apply to prescribed areas of the province. We believe all of Ontario should be considered a prescribed area with the same minimum maintenance standards. We also feel there should be more inspectors at both provincial and municipal levels. In Etobicoke there is a critical lack of enforcement of municipal health and property standards which indicates the city's politicians' lack of concern for the 10,000 to 15,000 tenants who live on the Mimico apartment strip. This problem will become even worse with the loopholes in Section 37 of the proposed rent control legislation. In subsection (1) of this section the inspector, it reads, "may make and give to the landlord a work order requiring the landlord to comply with the prescribed maintenance standard." This should read, "The inspector shall make and give the landlord a work order." Also, in subsection (3) of this section, the landlord may apply to a chief rent officer for a review of the work order. This step is unnecessary and will cause further delays in getting action on urgent maintenance problems.

DEMA believes strong enforcement of maintenance and repairs is critical to protect the affordable rental housing stock. If landlords are allowed to let their buildings deteriorate, they can use this as a justification under the Rental Housing Protection Act to demolish or convert to luxury condominiums. In south Etobicoke, on the Lakeshore, this is a critical issue to tenants because landlords have been neglecting their buildings for years and are using this to pressure city council to redevelop their properties into luxury condominiums like Marina Del Rey or Grand Harbour. Tenants have little input in these decisions and we are worried they will lose the homes they have lived in for many years.

In conclusion, we agree with some aspects of the proposed rent control legislation but the law should go further and the Rental Housing Protection Act should be strengthened to prevent landlords from circumventing the rent control legislation. Thank you.

The Vice-Chair: Thank you. I think we will proceed in the normal way that we used during the last hearings on this matter and rotate in terms of party. Each party has

approximately two minutes. We will start with the Liberals this time.

Ms Poole: You have given a number of comments about maintenance and I would assume, from the position in your paper, that maintenance is a very serious concern of yours. Have you looked at the legislation and the maintenance provisions in it, and thought about what might happen if the rules are so stringent that the landlord just refuses, that they are willing to accept the rent penalty because they are saying, "You are not giving us enough money to do the capital?" They just throw up their hands. Do you see any solution to that type of scenario?

Mr Saliwonczyk: First of all, the problem in south Etobicoke is that the landlords have not been maintaining their buildings for a number of years. This is before the legislation. So it is their own personal attitude to begin with. This thing about maintenance, I feel, is another form of land speculation to get around the proposed rent control legislation, because if they can let their buildings deteriorate far enough that it is an eyesore, the people in the community are blaming the tenants. They are saying the tenants are not keeping the buildings tidy, they are dirty, filthy, they are a disease. That is actually what some of the people in the community are saying today. But it is not their fault, the landlords are just letting the buildings go, and under the Rental Housing Protection Act a municipality, a city council can decide if the demolition of a building is a depletion of the affordable rental housing of the area.

Ms Poole: You have mentioned in your brief that in Etobicoke it is a particular problem to get the work orders enforced. I have certainly heard that about many municipalities. What do you see in Bill 121 that is going to help enforce those work orders?

Mr Saliwonczyk: This is my opinion. I feel there should be minimal provincial standards all across Ontario for all municipalities, and if municipalities wish to upgrade those standards they may. Also, I feel that—this again is my opinion—the municipal inspectors should be reporting to the province, because a lot of times the municipal governments pay lip service to the provincial regulations.

Mr Tilson: I was interested in your comments with respect to the personal attitude of landlords. There is no question, sir, that it is a problem which may never be solved. There are bad landlords; there will always be bad landlords. There are bad tenants, and there will always be bad tenants.

What our party has been concerned with with respect to this legislation is, where are we going with respect to the quality of life of the tenant? You could tell me horror stories—and we have heard them during the Bill 4 hearings—of the terrible ways in which certain landlords treat their tenants, and we even heard some terrible situations from landlords as to how tenants treat their landlords.

Notwithstanding that, there have been comments made in the press, privately and in the House that there is no incentive to landlords to maintain their buildings, to buy new buildings, to construct buildings, to put capital expenditures in. I do not know whether you were present this morning, but one of the issues came up this morning in the

debate that there will be no incentive for landlords to even make application for capital expenditures because of the fear in doing that that the rents will be reduced because of some other technicality, because it is becoming more and more of a technical piece of legislation.

Realizing that lack of incentive—and I hope you would agree with that; if you do not agree, please tell me—where is the tenant headed as far as the quality of life in the province of Ontario is concerned?

Mr Saliwonczyk: I can only speak for what I see in southern Etobicoke. In 1984, or 1985 approximately, there were a number of apartment buildings on the Mimico strip on Lakeshore and they were being run poorly by the landlords. Tenants were able to purchase them in the form of non-profit co-ops, and today they are much nicer, a lot cleaner. The tenants really do a good job for themselves.

My other point is, getting back to the quality of life, that in Etobicoke, the average income for a male is \$27,000 and for a female \$15,000, approximately, and household income is \$47,000. Marina Del Rey and Grand Harbour are building units in there that are \$500,000, which people who have lived in the community for a number of years cannot afford. If the developer were to build for the average income of the community, which is \$47,000, that may be a possible solution.

1420

Ms Harrington: The previous questioner asked where tenants are headed, and I am very glad you answered that one example is making the co-op and having those people take pride in what they are doing and improve the whole neighbourhood and be in charge of their situation and be in control.

You were talking about south Mimico. I am not really familiar with that area, but driving between here and Niagara Falls I go through there and I can imagine what is happening to the real estate, the actual land values. This is something that happened long before we came into government. The price of land in Ontario has been driven high by development and speculation, and this is what we are facing. So I would like to tell you that we are committed to having people live in Ontario where they want to live and there being opportunities not just in one part of Toronto but across Toronto for people of all incomes to live.

I do not want to see people like yourself being priced right out of Toronto. That is why we are here, that these neighbourhoods remain viable, that they remain mixed-income neighbourhoods, not just totally high-rise condos like up Bay Street here.

Your point about loopholes in section 37 is something I personally would like to look at. You have done a very good job of saying exactly which word is wrong. I would like to assure you that we will close those loopholes and that maintenance is extremely important in this bill.

Mr Mammoliti: I understand that you are concerned with some of the legislation, but overall, are you happy with it?

Mr Saliwonczyk: Yes. I am, myself, and other people in the community, other tenants, are pleased with it. We view it as possibly a first step or a continuing—

Mr Mammoliti: A step in the right direction.

Mr Saliwonczyk: A progressive step. That is the best way to put it.

The Vice-Chair: Thank you, Richard. We appreciate your coming today.

ONTARIO HOME BUILDERS' ASSOCIATION

The Vice-Chair: The next group will be John Bassel and others from the Ontario Home Builders' Association.

Good afternoon, gentlemen. If you would introduce yourselves for the purpose of Hansard, then you have 15 minutes to do with as you choose.

Mr Bassel: Good afternoon. My name is John Bassel. I am a member of the board of directors of the Ontario Home Builders' Association. With me today I have Mr Andy Manahan, who is a staff person in the policy division of the Ontario Home Builders' Association.

I have been asked by Mr Al Lipfeld of the Ontario Home Builders' Association to come here to make a presentation on behalf of the rental housing industry and the rental housing stock in Ontario vis-à-vis Bill 121.

The Ontario Home Builders' Association represents about 4,000 companies and individuals who are in the business of providing rental accommodation, both ownership-rental accommodation and rental accommodation, the management thereof, investment in it and so on. The association believes strongly that the private sector does have a substantial role in the existing housing, and most certainly in the existing rental housing and in rental housing in the future under the proper conditions.

We are pleased to present our views on Bill 121. I have to start by saying that the media pose the bill as a compromise between landlords and tenants. I do not view it as such at all. I believe the bill, although it may have some short-term appeal, is a recipe for long-term disaster, for the following reasons.

First of all, there will be an erosion of the capital or the equity in these buildings, which will have an impact not only on the landlords but on lenders and others who are interested in the rental housing field. There is a great jeopardy to the lenders in this province. As a matter of interest, and it may be of interest to this committee, I was asked to speak in Ottawa at the trust companies' annual meeting on the subject of lending in the rental housing field, particularly in the Ontario market—this was before the draft of this bill came out—and I was able to advise them. They are really worried about all of their real estate investment, and for them to have further jeopardy because of what may happen to them as a result of this legislation is something that many of them can ill afford. So they feel they will be—and they will be, in my view—in jeopardy as a result of the way this bill is written.

In the long term the bill will restrain the landlords from having the ability to maintain their buildings—I firmly believe that, and we will get into that if we have time—and to restore buildings to a more viable condition.

The uncertainty that will be created as a result of the passing of this bill: There are certain uncertainties as to where the rent roll will be, whether it will be up or down, and it is basically the structure and the wording of the bill

that causes this. It will cause landlords and others not to know where they are going with regard to their borrowing and their operation of the buildings. The bottom line is that what this bill appears to be creating is a very hostile environment which will not be good for either landlords or tenants.

In the detail of what we are talking about, I want to talk about the fact that 50% of the rent control index is broken down between small buildings and large buildings. The fact of the matter is it really should be broken down between old buildings and new buildings, because the old buildings, since they have been suppressed in their ability to command rent for a long period of time, have a reduced rent, and their operating costs are much greater than 50% of the gross revenue. So on an annual basis, the landlord will suffer a loss—either an increase in loss or a decrease in profit; it depends on where he is in his operating stream—because of this provision. It seems to me that it would be more beneficial all the way around to look at the index in another way. I will have a recommendation on that if I have time.

I have already referred to the fact that there is an erosion of capital, and that erosion is a result of inflation. This guideline at the rate of 50% of operating does not give any recognition to the fact that in the return on investment, on any capital investment, any equity investment, there has to be a component for inflation in it. This legislation precludes that, so the bottom line is that the \$1,000 that is invested today will be worth substantially less in 1999 dollars because of inflation. I know that is a fairly difficult concept to say in a few words, but I could expand on it later, not necessarily today.

There is a provision in the act for the private sector to build rental housing, and it is provided that the rental housing be exempted from rent review legislation for a period of five years. At that time it would come into the fold, so to speak. The problem with the way that is worded, first of all, is that it is worded in such a way—and the Minister of Housing I think put it pretty clearly in a speech I heard him give where he said that we are going to give the buildings five years so they can get to break-even. That is where the big problem is, because nobody is going to build a private sector building if he is going to wait five years to break even and then he is going to be clamped down on. He will never be able to make a profit on it. Indeed, no lender would lend him the money to build that building.

This may not appear to be significant, but I believe it is significant if one looks back at the CMHC statistics on the private sector rental housing that has been built in this province since 1985. I think the number is in excess of 50,000 units, so it is a significant contribution to the rental housing stock in the province. If legislation causes a situation where this housing will not be built, I think you will find that what you are really saying is that the provincial coffers are going to be responsible for building every single rental unit for every person, regardless of his means, who comes into this province and does not choose to buy a home. That means that everybody who comes in here, based on the numbers I am seeing—and hopefully it is true that there will be an influx of people into this province—it

means that the third sector will have to provide all the housing for all those people. I do not think that is either good business or a proper thing to happen when you have a private sector that is prepared to do these things under the proper scenario.

1430

I was concerned about subsection 13(7) and section 25 vis-à-vis the rent review officer who is obligated to look at the maintenance of a building before he rules on the ability of a landlord to obtain an increase greater than the guideline. The reason I am concerned about that is, the way section 25 appears to be worded, it is a very subjective thing and it is not one of those things that is subject to any sort of external, unbiased, so to speak, look at the thing. Unfortunately, under section 90 the right of appeal from any ruling is only on subjects of law. If either the wrong evidence is given or the opinion of the particular administrator who looks at it is erroneous in any way, there is no right of appeal, so it does create a real problem for landlords.

I was going to talk about the capital improvement section of this, but I know there will be many speakers during the course of these hearings who will deal with this problem. Let me say only that what I said about the 50% for the guideline applies even more so for the capital improvement requirements, because the older the building, the more money it needs for capital improvements, and of course, since its rent is low, the 3% or 5% or whatever is going to be allowed is a smaller absolute number, so the landlord of the older building will have fewer dollars to spend on capital improvements under the legislation.

I have a list of nine recommendations on behalf of the association and I would like to read them.

1. The appeal procedures should be modified to take into account all factors, not just questions of law. I think it is obvious that for both sides, if there has been a mistake made in questions of fact, there surely to God in this country of ours should be a right of appeal from that.

2. Interest rate changes should be the subject of adjustments to rent; that is, up or down. That is particularly to make sure that our financial institutions and others are properly protected and the people who invest in those institutions are properly protected for the security of their money.

3. The guideline should include a factor to offset the erosion of equity caused by inflation.

4. The operating cost component of the guideline increase should be adjusted to appropriately reflect the operating cost ratios of pre-1976 buildings and post-1975 buildings. In other words, instead of large and small, it should be pre and post. If I am making myself clear, the operating costs of pre-1976 buildings, I am informed—and I think I have been involved in this industry long enough to know what I am talking about—are closer to 60%, and the post-1975s are less than 50%. If you do not do that, you are just causing a recipe for the landlord to gradually lose his building, lose the ability to maintain it, and I do not have to go into the details of that.

The next item is the rent. The exemption period of five years for new buildings should be adjusted to give effect to

the concept of maximum legal rent being the economic rent for the building or for the complex when this building goes into rent control at the end of the fifth year. In other words, the concept of economic rent should be in there. Otherwise, you will not get anybody to build buildings. I do not want it to be said five years from now that the government allowed the private sector to build buildings and nobody built any, without having received the warning that the private sector just will not be able to under the scenario the way it is worded now.

I think the other thing is, you have a date of June 6, 1991, as the building permit date for buildings. I do not see any reason why any unit or building that has not been previously occupied, either as a rental or as a condominium unit, should not be allowed the five-year exemption, particularly in view of the fact that there are many condominium units in a very badly distressed market out there right now that are being rented for really low rents at this point in time in order to defray part of the costs and a lot of small people are—am I running out of time?

The Vice-Chair: Two minutes.

Mr Bassel: Okay, I will drop that then.

The concept of the standard of maintenance being inadequate should be rethought completely. I think the concept of the maintenance standards being inadequate is so subjective. If I am providing a product that I am renting or selling for \$50 and you are providing one that is selling for \$150, it should not be that both of those products should have the same degree of goodness, so to speak.

The time period for compliance with work orders should be modified. I think you are going to hear lots on that subject.

One thing that we find particularly offensive is the search and seizure powers, which we consider to be inordinately draconian in this legislation.

Item 9, and this is the last item: The rules for capital improvements must allow sufficient funds to be available to maintain the buildings. On the basis of rough and ready calculations that I made, I do not believe this to be so.

I would like to thank you all for listening to me, and if there is any time left, I would be happy to answer any questions you have.

The Vice-Chair: I would like to thank you for your presentation, and a perfectly timed presentation it was, because the time has unfortunately expired. I am sure the members may choose to explore it privately with you.

Mr Bassel: If I did not allow time for questions, I did not time it perfectly. I am sorry.

Mr Tilson: Mr Chair, I have a question for you. As a result of his comments, I would like certain information from the ministry, and I do not know when the appropriate time to ask for that is. I am thinking specifically of the issue he raised with respect to the reduction of the guideline. Do you want me to stop?

The Vice-Chair: I am just thinking about this. We have 15 presentations we have to do today. Just to be fair to the presenters, I wonder if we could make a list of these. There may be more information that is required, and perhaps at the end of the day those—does anybody object to that?

Mr Tilson: No, it is reasonable.

The Vice-Chair: It seems to be a reasonable approach to the afternoon, I think, given the time constraints we are under.

1440

CST CORP

The Vice-Chair: The next presentation will be from CST Corp, Mr Richard Cole and Mr Joel Slan. Welcome, gentlemen. You have seen the way the committee operates under my rather draconian hammer. Perhaps you would like to identify yourselves for the purposes of Hansard and provide the committee with your information.

Mr Cole: I am Richard Cole, the president of CST Corp, and this is Joel Slan, the secretary-treasurer of CST Corp. We are pleased to have the opportunity to speak before the committee.

Before we go into our comments, I would like to offer my congratulations to the new Minister of Housing, Evelyn Gigantes, and wish her Solomon's wisdom in trying to undo a riddle that maintains a good stock of housing in this province, makes it possible for the landlords to make some return and keeps rents at a place that the residents and tenants in buildings can afford to live there. It is a terrible problem.

CST Corp is a long-term investor in rental units. We have 800 units. We acquired the company in 1977 from the Farlinger family, who built the buildings in the 1960s. The buildings have really only had two owners in the entire history of the buildings. The buildings are now in better shape or at least as good shape as at the time when we acquired the buildings in 1976. Our policy has been to maintain the buildings at all times and to try to maintain very good relations with our residents. We prefer to call our tenants residents.

We have a written brief that we have submitted. I am going to try to hit the highlights of it and hope that the members of the committee can refer to our brief if they want to see some of the reasons and some of the detail.

In 1990, we planned a major maintenance program, a capital program, where we would have expended \$5 million over approximately a three-year period. We expended \$2 million in 1990 and we received rent increases under the old legislation covering about \$700,000 of those expenditures. Approximately \$1.3 million of those expenditures were caught by Bill 4 and we have not received any rental increases for those expenditures.

Before we deal with the specific recommendations, we would like to make some general comments on why we think Bill 121 is inappropriate, not in the interest of property owners, not in the interest of tenants, nor is it in the interest of the general community.

The provisions of the bill do not permit a satisfactory standard of maintenance. The whole regime is too restrictive. It is not only the cap, it is everything that goes together with the cap and the deductions before you apply your expenditures to get your rental increases.

It seems odd that the new government would like to penalize the sector of the community that is providing most of the affordable housing. The private rental sector is

probably the most efficient way of providing affordable housing, and I think a study of the industry would indicate that.

In Ontario, the rental stock is aging. Most of the buildings were built in the 1950s and 1960s and the maintenance needs of the buildings are increasing. At the same time that we are having a recession, the new government has introduced legislation which is going to stop that maintenance program and going to cut back on employment. We estimate that our modest program, on the basis of \$50,000 expenditure for each man-year of employment, would have provided 100 man-years of employment. We have had to cut out 60 man-years of employment because the standards were changed and we cannot go forward with our program. I leave it to economists to estimate how many indirect jobs were lost and what this impact would be over the entire rental stock in Ontario.

I do not want to deal with the technical aspects of the bill. We have focused on the areas where we have the most experience and have nine specific recommendations.

First, we agree with the previous presenter that the guideline is unrealistic for older buildings. The assumption is that 50% of inflation would allow a landlord or property owner to sort of stay even and not lose each year. In any building where the operating cost ratio is more than 50%, this is not the case. Our experience indicates that all of our older buildings have operating cost ratios well in excess of 50% and approaching 60%.

As buildings become older, the annual level of maintenance increases. This provision is penalizing those owners of buildings who are providing affordable housing. The ratios are high because the rents are low and the maintenance is high. We have looked at how this standard should be applied and we feel that older buildings tend to have low rents. Our feeling would be that buildings over 20 years old deserve specific relief.

Our first recommendation is that the guideline that applies to smaller buildings should also be applied to buildings over 20 years old.

I will deal now with the phase-in from Bill 4. CST has been unfairly treated by Bill 4. We had completed substantially all of our capital program by the end of June 1990 and had applied for rental increases by the end of July 1990. The new government brought in retroactive legislation that effectively disallowed rental increases for items completed well before the new government was elected.

In dealing with Bill 4, the former Minister of Housing promised that the permanent legislation would alleviate the retroactive effect of Bill 4. In our case, we would have received rental increases of about 5% of our rent roll in 1990. Under the proposed changes we may receive 3% increases some time in 1992. This, in our view, is grossly inequitable.

Our second recommendation would be that amounts not covered under the old legislation and caught by Bill 4 should be phased in at 3% per year up to a period of three years, without deduction of the 2% supposedly in the guideline to cover major maintenance in any year. We feel this is fair, because we are having a delay. There was 1%

in the old legislation to cover major maintenance in the guideline, and I think this approach would be equitable.

Bill 121 can be interpreted to conclude that the government is not interested in an economically viable private rental accommodation industry. We do not think this is the case, because any sound overall economic analysis of the factors would lead government policy advisers to conclude that an economically viable private accommodation industry is essential.

Most other forms of housing are quite expensive compared to private rental housing. Co-operatives are expensive both for the government and the residents. If the government reviews its files for any recent co-operative, it will find that on a monthly basis it must subsidize these projects by an amount that is approximately equal to the rent on private sector rentals, and in addition, the tenants have to pay monthly rentals that are very similar to private sector rentals. I believe the government stated that it would cost \$15,000 per year to create new co-operatives in its program. This is a very expensive approach. I do not think this province can afford it on a long-term basis.

1450

Government-owned rental housing is also expensive. Private landlords do many of the things without compensation. The government rental sector must hire executives to run them. Often the private rental sector provides executive input without charge.

Getting down to the specifics, we feel that the 3% cap is unrealistic. The owner is forced to invest only receiving a return on 60% of the amount invested. This will not cover interest. Our recommendation is that the cap should be adjusted upward if there is inflation and that it should be stated as a percentage of the guideline. Our second recommendation in this area is that the regulation should permit a three-year program, with only a single deduction of 2% for expenditures that are deemed to be covered by the guideline increase.

We agree that property owners should be penalized if work orders are persistently disregarded. However, we recommend that a rent freeze due to work orders should be instituted only if and when it is shown that the landlord has not made a reasonable attempt to comply. Second, complaints initiated by a single tenant should only impact on that tenant's unit and should not be used to give a roll-back of the entire rental of the building.

Property taxes are our largest single expense. These have increased more than anything else. We think both landlords and tenants are being unfairly treated in this area. We recommend that legislation should be amended to take property taxes out of the guideline and make property taxes a burden to the tenant or a reduction of benefit to the tenant. Second, we feel that a mechanism could be introduced to make it possible for property owners to finance necessary capital expenditures out of property tax reductions.

I believe I have two minutes left and would like to leave that available for questions.

Mr Turnbull: Mr Cole, obviously it is very difficult to do any justice to it with two minutes, because it has to be divided among all of the parties.

One of the things that struck me is the fact that having sat through Bill 4, I saw the complete reluctance of the NDP to accept the validity of any of the statements made by the property owners. In fairness to the NDP, they probably felt the tenants were ignored by us. Neither is true. How do we come to terms with the fact that you cannot finance repairs unless you get the money? Really I am asking you how I can communicate with my colleagues on the other side, because I saw Mr Mammoliti shaking his head, suggesting that the private property owners are not the most effective deliverers of low-cost rental housing. Notwithstanding that, we know that the cost of non-equity co-ops, on a per-unit basis, is typically higher than the average rents of for-profit rental housing.

Mr Cole: I do not think there is a simple answer to that. All I can say is that if the legislation were moderated so that the landlord can make some money, he would have a big incentive to do it as efficiently as possible. We feel that property tax reductions, a change in the property tax and a shift of the property taxes away from apartment buildings would provide a lot of money that could be used to help pay for the needed repairs in the rental stock.

Ms Poole: Thank you very much for your presentation. It has been quite helpful. This morning when I made my opening comments, I referred to the fact that I felt the guideline being siphoned off into two different levels, one for large buildings and one for small buildings, did not make any sense, that it should be based on the age of a building. Just prior to your presentation Mr Bassel said something very similar. He remarked that he felt post-1975 and pre-1975 would be a logical cutoff for this criterion if it were based on age. Do you have any ideas on what the benchmark should be if the government were to change and make it age rather than size?

Mr Cole: We thought of 1975 as being the cutoff point because that is when the new rent control legislation was first introduced, but we also felt it could be a rolling standard and that 20 years or something around that area would also be equitable.

Ms Harrington: First of all, you have given us a very substantial brief here. As always, you have done a lot of work on it. Unfortunately, we have not had a chance to read it yet—

Mr Cole: Our telephone number is available.

Ms Harrington: —but I am hoping that our staff from the ministry will really have a good look at this.

I just wanted to comment on one of the statements you made. You made a lot of interesting statements, and I would like to say that you are right when you say the government is interested in the economic viability of the private industry of rental housing. That is very logical. As you have stated, we have to be and we are, and we do not want to have these buildings changed so much that people are paying much more, in changing the nature of their building and the character of the neighbourhood. We want to stabilize neighbourhoods. We want to make them available for people. But we also want the private owner to be able to have a fair profit and we want to be encouraging people to be involved in that particular market, too, and we

are struggling. As you say, the balancing act is very difficult, struggling to try to get that to happen, because in the past there has been so much speculation going on that things are skewed.

My colleague asked me to ask you if you if you have any buildings in the riding of Yorkview.

Mr Cole: We have a building in Etobicoke.

The Chair: I am sorry, the time has expired for this presenter. We are already three minutes over the 15 allocated and we are going to have to call forward the next group of presenters. I want to thank CST for coming this afternoon. I am sorry the time was so limited.

1500

METRO TENANTS LEGAL SERVICES

The Chair: Metro Tenants Legal Services, the committee has also allocated 15 minutes for your presentation. If you wish, you can save some time for questions and answers.

Ms Robinson: Thank you. Hello, committee members. My name is Leslie Robinson. I am director of law reform at Metro Tenants Legal Services. We are a legal aid clinic which has represented low-income tenants at rent review and in other legal matters since about 1975, and I have been working as a tenant advocate since about 1975 as well, so I am making a presentation today. I am not going to follow the written notes. If you try to keep up, it is no use.

I offer both the experience of our clinic and my personal experience to meet and consult with MPPs as you are going. I think a lot of times we see people thrown into the legislation. You see it fresh and you might want to have some information on what has happened in the past and what our experience has been under previous legislation. We would be happy to avail ourselves to you to provide our opinions, our expertise and our experience.

I want to say at the outset that we have welcomed the new legislation that has been put forward by this still new government in Ontario. We certainly see Bill 4 as an improvement over the Residential Rent Regulation Act, which we have been working under for the last five or six years, and we see Bill 121 not as preferable to Bill 4, but as an improvement over the past legislation. The primary reason for that is the elimination of financial loss and economic loss pass-through.

Tenants in the last 15 years in Ontario have never understood why their rents should go up when their building stays the same but when there is a new landlord who got a new mortgage to buy the building. Their question always comes back to, "If he wasn't going to make enough money to buy the building, why did he buy it at such a high price?" We really hope that the elimination of financial loss and economic loss pass-through will result in some stabilization in the cost of apartments in Ontario. We saw a lot of inflation in the cost of apartments over the last five years or so, and we believe that a lot of that was due to the pass-through of these costs.

We have taken the position that there is no reason that the cost of rental housing ought to inflate faster than tenant incomes. The reason we take that position is that if the cost

of rental housing does increase at a faster rate than tenant incomes, then that housing is becoming more and more unaffordable and more and more inaccessible to tenants.

You will have people come here before you and tell you that rents have not gone up as fast as inflation, but I will tell you they have gone up faster than the incomes of tenants. The unit that cost 20% of an average tenant's income 15 years ago costs significantly more than 20% now. On average, tenants are paying more and more of their income towards the rents, and this is having a direct effect. I have been a tenant advocate for 15 years and have never seen tenants doubling or tripling up in apartments the way they are now, living in unsuitable basement apartments and living with children in unhealthy conditions because they just cannot afford to pay the price of decent housing.

We acknowledge that the vacancy rate has gone up a bit recently and that there has been a bit more room within the market. I have not seen that filter down to people who are able to pay \$500 or \$600 a month, to women, primarily with children, who are looking for accommodation that is suitable for children and big enough for their families on low incomes. There are still people having extreme affordability problems and extreme problems having access to affordable housing.

We have heard from landlords that rent review is inappropriate legislation, that the problem really is that people's incomes are not high enough, not that rents are too high. We will not disagree with them that there is an income problem in Ontario. We will not disagree that minimum wage is too low and that social assistance benefits are too low. However, tenants have two problems: On the one hand their incomes may not be high enough, but on the other hand their housing costs are too high.

If you create a system that allows rental housing costs to increase as the market will push it up and then start subsidizing tenants to pay the rents, what you are creating is a market welfare system. You are taking public money and transferring it to private sector landlords so that you can artificially buoy up a system that would crash if it were not for the support of that market money.

I think the private sector has to be told the same way doctors have been told by David Peterson's previous government and the same way that you tell educational institutions that they are providing a basic essential for people. Housing is a basic human essential and a basic human right, and if they want to be in the business of providing housing, then these are the rules by which they must operate. Rent increases over and above the guideline amount are not acceptable and landlords can choose whether to operate or not. It may be that there has to be a lot more publicly supported housing, but if you start with the premise that housing is a right, you cannot do anything other than impose regulation upon the landlords who operate in the rental housing business, otherwise you are depriving people of basic human rights.

Earlier I heard John Bassel of the Ontario Home Builders' Association tell you that the private sector will not build under this legislation because five years is not long enough to get up to a reasonable profit level. But the private sector has not been building considerable amounts

of rental accommodation in Ontario since well before rent review was introduced in 1975. We heard promises, with the introduction of the RRRA, which was a very generous legislation to landlords, that there would be cranes in the skies. Some landlords felt this was more generous and that they could start building, but we did not see those cranes in the skies.

I would like to suggest to you that the escape of the private sector from the development of rental housing is separate and apart from the introduction of rent review or the severity of rent review legislation in Ontario, and I give as an example the city of Vancouver.

British Columbia tenants lost protection of rent review in 1983, and have not had any rent review legislation in that province since. You would expect, therefore, that the private sector developers would be rushing over to Vancouver and Victoria and into British Columbia to build the rental apartment buildings they are so anxious to build, but what we saw happen to private sector rental starts between 1982 and 1988, which is the limit of the data I have, is a reduction in the number of units built.

In 1982 and 1983 there were over a thousand rental units built in Vancouver. By 1988, there were 315 new starts in Vancouver, and in fact, beginning in the late 1980s, there were more units lost through demolition and conversion than actually constructed, so there was a net loss in Vancouver. Vancouver and British Columbia have been without any form of rent review for about eight years now, so I think you have to challenge the landlords when they say they are going to build, and ask them where are they building. Under what conditions is the private sector building affordable rental housing?

There are lots of jurisdictions in Canada, the US and Europe that do not have rent review or rent controls and have not had them. Can they empirically show you that the private sector is building housing in those places? Without that kind of backup, I do not think you ought to buy it from them that rent review is the reason they are not building housing.

We have provided for you in our brief some of the criticisms and suggestions for improvement of Bill 121. I would like to acknowledge that we have been critical. While we welcome the bill, we do have some problems with some aspects, and I will try and highlight some of those issues.

The first and most significant issue to us is basically the provision for pass-through of capital expenditures. It is our position that this cost pass-through system in Bill 121 is not a significant change from previous legislation that we have had in Ontario. There are some changes to some of the rules; there is a limitation on how much can be passed through, but overall, the system has not changed, and we think the system needs to change. The cost pass-through system on capital expenditures has not worked for a lot of tenants in Ontario over the last 15 years. Tenants who need capital to be spent on their buildings have no way of impelling the landlord to spend the money; and tenants who have been paying rent that includes money that should be going towards capital expenditures have not been able to see that money put aside or contributed to-

wards capital expenditure when the time comes for the landlord to actually do the work.

We think you need to develop a way of treating capital expenditures that not only protects tenant affordability, but also plans for the future and ensures that buildings that are in disrepair now, and the stock as it ages, are going to be kept up. That is a long-term concern that we do not believe is addressed by this legislation, or has been addressed by legislation before this.

The 2% capital allowance in the guideline, we would like to point out to you, accumulates every year, and has been accumulating in the guidelines since 1985 or 1986, when the RRRA first took effect. It is not just 2% of rents that has been put into the guideline for capital repairs for the landlord to contribute. That is an additional 2% each and every year.

The guideline formula under the RRRA allocated 1% towards capital expenditures so, after six years, there is in excess of 6% already in the rents that the landlord is supposedly contributing to capital expenditures, and that will increase by 2% every year. There is no provision in this legislation to say to a landlord who is coming forward with a claim of a capital expenditure, "Where did you spend the money that you collected before?"

You are allocating the 2% in that year's rent towards capital expenditures, but you are not looking at what has happened before, and the effect is going to be that those landlords who actually spent 2%, or a significant portion of it, on capital expenditures, will not have claims to come forward with; those are the landlords who were responsible and did what you hoped they would do.

Those landlords who did not spend the money will have future claims to come forward with; so you are rewarding the people who took advantage of the system. It is backwards; there has to be a better way of dealing with capital expenditures.

We were quite concerned that the proposals for capital replacement reserves that the Federation of Metro Tenants and our organization and others have been supporting and putting forward to the Minister of Housing are not reflected at all in this legislation.

1510

We understand that more than 50% of the responses to the consultation paper that was released favour some form of capital replacement reserves. This system of reserves is required in condominium housing. It is required in non-profit housing. It is government that makes that requirement, and we do not think that rental housing should have a second-class status. We think that money should be put aside every year out of the rents so that capital expenditures can be planned for and so that the money is there when it is time to make an expenditure; and we hope that this committee will look at that proposal again.

We suggest that new buildings under construction may be a good place to start, because they are fresh, and you can require landlords, as you require condominium builders, to put so much money aside ahead of time. You know, even if this Bill 121 passes without significant change, we hope that in the long term you will continue to consider

capital replacement reserves as an alternative that we have suggested to the capital pass-through in this legislation.

There is only one other point that I will make in my 15 minutes. It is again about capital expenses and this business of tenant consent. There is a provision that if the work is done inside the unit and a tenant consents to it, the rent can be increased, and there are no eligibility criteria for those capital expenses. They do not have to be necessary. They do not have to be energy-efficient. But if the tenant says yes, then the tenant pays for it. I have a great fear that this is going to have two negative impacts. One is that landlords will start selecting tenants on the basis of whether they will vote yes. There will be a new selection criteria. It will either be covert: "Do you make enough money that you will be able to afford the new countertops and the new microwave and glass on the balconies," or outright, "I will give you this apartment as long as you will vote yes."

The second problem we see with this is that there will be, in some instances, intimidation of tenants by landlords to vote yes for the capital expenditure. We are not generalizing about private-sector landlords, but anyone can be a private-sector landlord, including someone who uses intimidation tactics. We have seen tenants intimidated for a number of reasons, and we hope that this section will not be kept in the legislation and that this will not be another reason for landlords to come to tenants and say, "Sign here or I will kick you out; sign here or I will report you to the authorities," because some tenants have got two families in the apartment or they are collecting welfare or something like that. We hope this will not be another tool that landlords have to use against tenants.

I would like to reiterate that I myself and Metro Tenants Legal Services are available for further and private consultation, and I thank you for the opportunity to speak to you today.

MANTLER MANAGEMENT LTD.

The Chair: The next presenter is Mantler Management Ltd. The committee has also allocated 15 fifteen minutes for your presentation. If you wish, you can withhold some time for questions and answers.

Mr Bowman: My name is Dion Bowman and I am from Mantler Management Ltd. We are a property management company in the greater Toronto area with about nine buildings.

Generally, our main concern with this process is that we ensure that our clients' views are known and understood here. We would like to ensure that our investors have a small but safe return, and that is, I think, what our investors are looking for. We believe that 50% and 60% rent increases under the old system is incorrect. It has been our experience, however, that when those 50% and 60% rent increases were granted, those rents were never collected. The apartments could not be rented for those exorbitant rents.

Our real concern, though, extends to our ability to provide our tenants with a decent place to live. This legislation may hamper our ability to give a decent place to live. More specifically, we have concerns about the annual stat-

utory rent increase. Why was there a change in the formula for the statutory rent increase? The minister said when he introduced the legislation that if the legislation were in place today, the 1991 statutory rent increase for large buildings would be 4.7% and for small buildings, it would be 5.4%. This is a difficulty for us because, under the old rules, the statutory rent increase did cause some financial difficulty for some buildings especially in those buildings where the financial loss and relief of hardship was taken away this year.

We also have difficulty understanding the difference between the economies of scale of running a six-suite and a seven-suite apartment building. Where is the justification? Why is a six-suite entitled to more than a seven-suite building?

Extraordinary operating costs: This is a concern with us. We are very concerned about the elimination of the maintenance category. It has been our experience that the maintenance in a building changes from year to year. For example, if you have a boiler in a brand-new building, the maintenance on that boiler is next to nil. As the years go by, your maintenance increases and increases until you get to a point where that boiler has to be replaced and then you are back down to a nominal level of maintenance. This legislation does not reflect in any way those sorts of requirements.

If you extend this further throughout the whole building, you find that maintenance is not a static item. It changes—it goes up, it goes down—and if you have a rent review order, and under the old system it is established that the maintenance per suite per year is about \$500 a year, and then the landlord looks at his building two or three years down the road and it is actually costing him \$750 per suite per year, there is no allocation, there is nothing. Now, if he continues to spend \$500 plus a statutory increase on that particular building then he could be subject to a decrease in rent because the standard of maintenance is no longer there. That is a concern of ours.

Further, the intent of this section of the legislation seems to say, "Well, we want to only give the landlords increases on things that are beyond their control." For the most part, maintenance is something where if it breaks, you have to fix it. The only question is, how? Do you really have much choice in how much it is going to cost to repair an item? Obviously, you want to do it as efficiently as possible but there is still that question: it is broken and it has to be fixed.

Another item which does not seem to have been addressed is one that we found to be a major problem, and that is the escalation of garbage costs. The Metro works department has been increasing the garbage costs significantly over the last few years. I think they went up 50% from last year. They started off at \$18 four or five years ago and now they are \$150. We have offset these costs with recycling, composting and so on, so much so that we have been able to offset the cost so that it only increases minimally until about this year; and now we cannot go to rent review and say, "Listen, we would like to have an increase because our maintenance has gone up."

This problem is further exacerbated by the fact we can no longer give the tenants a motive to recycle. There is no economic motive. Whether they take it down the hall and throw it in the garbage chute or go downstairs to the recycling room, it makes no difference to them unless you can appeal on an environmental basis, which works in some cases but not in all. So we cannot say, "Well, if you recycle, then we won't have to go to rent review for an increase in rent."

A further problem seems to have happened in the town of Lindsay, which has said: "Right. Our taxes are increasing tremendously. We are going to cut garbage collection from all apartments." This means that the landlord now has to pay for his own garbage collection. Under the proposed legislation, presumably the tax bill would be less now than the province-wide market component because there is no more garbage collection. Therefore maybe the tenants are entitled to a decrease, but the costs overall have not changed or they have gone up.

1520

Finally, I did not see cable TV on the extraordinary operating costs, and this is also something that is beyond the landlords' control. It is set by the federal government: This is the rate, this is what you have to pay, and if we happen to be supplying TV cable to the tenants then we have nothing to go on.

Capital expenditures: We do not agree with the cap of 3%. We think it is unacceptable to expect a landlord to spend \$500,000 on an underground garage or a brick facing which would have brought 10% or 15% increase under the previous legislation. Now, you are saying, "Well, you get 3% and 2% or 1% in the following year." The previous speaker was saying, "What happens to this 1%?" That 1%, if not more, generally is spent every year, in our experience. We have to spend it. We have to give a few fridges or a few stoves. We have to replace a hot water line. Every year you have to do something that is of a capital nature, and it does get eaten up.

The other question with regard to the 3% cap is, what is the justification for taking the 2% off in the second year? It is a passover from the previous year. What has it got to do with the capital expenditure that is supposed to be used up in the following year? The minister dealt with the necessity of capital expenditure by insisting that a landlord prove that capital items are not a result of neglect or that these items actually had to be replaced.

The government in a sense is requiring the landlord to go to a consulting engineer and pay him money and say: "This has got to be replaced. Its useful life is finished." So it costs you \$2,000 or \$3,000 to go and get a rubber stamp on something, whether or not the engineer was required for the actual job. The other option would be to go to the municipality and say: "Well, we have these bricks coming off the wall. We would like to replace them. Can you give us an order so that we can prove to the rent review that we need to have these bricks replaced?" Then what happens? We do not get a statutory increase until the completion of the job. That is just a question, you know. It increases the cost, and why? Is it always necessary?

We have a little bit of difficulty with the change with deliberate neglect. It used to be shown that if there was deliberate neglect on the landlord's part then he was not entitled to capital expenditures. Now, it is simply neglect. Well, if there was human error, is that neglect? Why the change? We do not really understand the reason for that.

Transition of previous capital expenditures: We have an application that was made under the previous legislation. This application under the current legislation will be disallowed because it is capital. But in your proposed legislation and so on, a significant proportion of our capital for this application was spent in October, November and December 1989. The end result is that we will have lost this capital expenditure in terms of looking at it in terms of rent review.

Further, application to reduce rent: Is there a mechanism set up that would disallow tenants or community legal services from arbitrarily applying on a yearly basis for a building for rent reduction on the basis that they think there might be a reduction in costs?

I had a situation where I had to go through the first level and the second level with a tenant because she did not understand the rent review proceedings. We had to have time put aside and a room booked and it was all because she did not understand the rent review proceedings. There was not anything to do but to sit this lady down and explain to her how rent review worked, and we had to go through all this expense and so did the government.

It was not a big deal, but there was no facility to stop that from happening. So is there a facility to stop a tenant from consistently, every year, going back to rent review and saying, "I think the landlord's taxes have gone down, so could you please look at it?" Is the onus on the tenant to supply and go to the municipalities and everywhere and ask for the invoices and then look at them and compare the years, or is the onus on the landlord to come with the invoices and say, "No, sorry, this year, actually, our costs went up?"

There is another problem with standard of maintenance. In this legislation there seems to be the idea that if the landlord does not have enough money to do adequate repairs, then we will reduce his rent, we will penalize him. If you reduce his rent, then he has less income the following year, and then he cannot do as many repairs the following year, and you get into a very vicious circle which basically would end up with a poor-quality building.

We see all sorts of buildings throughout Toronto where there has not been sufficient maintenance put into the buildings, and they are in terrible shape and they should be brought up. Yes, maybe the tenant should not be paying for that deliberate neglect, but on the other hand, if there is not the money, for instance, with the pulling out of the financial loss and relief of hardship, you have a lot of landlords who do not have the money who thought they would have the money and now they do not and they are stuck.

Discontinuance or withdrawal of services: The problem we see with this is if you have a landlord who has a super and an assistant super and the assistant super is responsible only for cleaning the building, that is what he does. Now the landlord decides that he would be better

served if he hired a cleaning company, a professional cleaning company to look after the cleaning of the building and be done with it. A tenant goes to rent review and says: "I no longer have an assistant super. I have a reduction in service." Does that mean that this is now going to be a reduction in rent? To me it looks like it is.

As far as decision-making and administrative structure, the minister did not address one of the big, big concerns for tenants and landlords, and that is the time delay question in issuing orders. We have waited two, three years for rent review or rent appeal decisions, back rent of \$6,000 to tenants.

The Chair: Fifteen minutes have expired. Thank you for your presentation. I believe there has been a substitute for the next presenter. I do not have the name. The original presenter was Ian Pianosi.

Mr Turnbull: I would like to suggest that we advise people before presentations so we have some time to question them.

The Chair: I do. I advise every person who sits before the committee that they have 15 minutes and that it is their option to leave time for questions and answers. I cannot unilaterally reduce the presentation of the individuals or groups who come before us. It is their 15 minutes and I am assuming they will decide as has been done in the past, whether they want to use the total 15 minutes or want to leave five minutes at the end for questions. The real problem, and I have said this to committee members time and again, is that there are too many individuals and groups for the time allotted for this committee to work.

Ms Poole: I can appreciate the very difficult job you have, Mr Chair. Maybe one thing that would help is that when there are, say, two minutes left in the presentation time, we could warn the presenters. Then they can either sum up or end there so that they could allow for questions.

The Chair: As a matter of fact, I have been trying to do that and I did exactly that with Leslie Robinson from the Metro tenants. I signalled to her that she had four minutes left and she nodded and she used up the four minutes. I tried to signal this gentleman before he finished, but I could not catch his eye at about three minutes.

I do not think it is the responsibility of the Chairman to sit here and kind of wave my fingers at every presenter. My job is to let everyone know when they come before the committee how much time they have and what they can do with it. I understand very well the frustrations of the committee members when they cannot ask questions and get answers to specifics, but that is out of my hands.

Ms Poole: I can appreciate that. Perhaps we could give them a verbal warning, just saying, "There are two minutes left."

The Chair: You have to understand how uncomfortable that becomes when in the middle of a sentence or a train of thought, I have to tap the table and say, "Excuse me, you have three minutes left." If that is what the committee thinks I should do—

Mr Mammoliti: Mr Chairman, you are the Chair. You decide as to what you should do in that particular case. But

I think we are here to listen to the people and our debating on interrupting their 15 minutes is wrong, in my opinion. I would suggest that we move on.

The Chair: I am waiting for Ian Pianosi.

Mr Pianosi: I am here. I was advised of this on Monday at 4 o'clock, so I really am not totally prepared, but I have somebody who is in a similar situation to me who could explain our case.

1530

ROY BIRNBOIM

The Chair: Sir, if you would just identify yourself for the record. You also have been allotted 15 minutes by the committee. If you wish, you may retain some time for questions and answers.

Mr Birnboim: Yes, I would like the latter. My name is Roy Birnboim. In order to facilitate what I have to say, I have prepared copies of part of the text. If I could distribute that and keep one for myself.

The Chair: Sir, you have until 3:47.

Mr Birnboim: In anticipation that the previous gentleman was not able to speak, I was asked yesterday if I would be able to make a presentation along the same concerns he had. I am very happy to do so. Perhaps I should not say concerns that I wish to express, but really anger over Bill 121.

My anger over Bill 121 is not only in terms of what it says in the bill, but also what it does not say. As I indicated, I have given you the written text of the remarks I will allude to in a few minutes, but I would like to preface those remarks by expressing, if you will, my background feeling leading up to this presentation.

As a group, landlords in the past and perhaps currently have criticized rent control since 1975. People have asked: "Well, what's the difference? You are constantly criticizing." I would like to make the distinction, if I may, between the here and now and what was in 1975 leading up to Bill 4.

I believe personally, and I do not speak on behalf of landlords generally, that prior to Bill 4 and Bill 121, the landlords were economically incarcerated in their investment. They were limited in what they could do. It was not portable capital. They could not move it out of the province if they did not like it. They were incarcerated. We did not like it. We thought we could constructively criticize, and we did our best.

Today, with Bill 4 in existence, and Bill 121, I strongly believe we are economically executed in many instances. There is a main distinction that should be addressed by all fairminded politicians.

I mentioned a minute ago that what concerns me is not only what is said in Bill 121 but what is not said. I will only allude to it quickly, because it has been debated for days on end that Bill 4 brought in retroactive financial loss. Bill 121 ignores that fact and has made this temporary legislation permanent legislation, ie, no recognition for retroactive financial loss.

I raised the issue with the Minister of Housing at the time that I have a building that is reflected in schedule A

and I told the minister that it is costing me over \$100,000 in financial loss and, because of the retroactive legislation, I am condemned in perpetuity to finance it or go bankrupt. He said to me I paid too much for the building. I said to him I paid arm's length; in fact maybe below market, I would like to believe. He said, "The tenants shouldn't have to pay for your mortgages."

I submit that when any consumer buys a loaf of bread, he pays for the farmer's tractor. I submit that when any consumer buys a pair of shoes, he pays for the factory, and indeed the employees' homes, through their wages. Why should we be treated any differently? It is called fair profit. That is all we are asking for. Not usury, but we do not want to be a scapegoat to a social housing problem that exists. We admit that it exists and we want to talk and try to redress the inequities, but not in this fashion, where landlords are left holding the bag, more or less.

I submit very quickly that if there is some compassion for tenants with respect to higher rents than they can afford, perhaps the minister can look at treating property taxes on apartment buildings in the same fashion as every other home owner building, because the fact remains, depending on the municipality, that tenants pay through their rents anywhere from 30% to 40% more in property taxes than the home owner. That, in my judgement, has been conveniently overlooked.

In order to bring forward the other concerns I have, I would like to refer to the written text, and then hopefully I will have a few minutes for questions. In the overview I have given, and I refer to it as a critique of Bill 121, I say that I believe sincerely that most people, regardless of differences of political philosophy, regardless of whether they are a tenant or a landlord, wish to achieve a balanced and fair social housing program. It should be recognized, however, that social costs are a societal responsibility and should not be the domain of landlords where, as a result, huge losses and bankruptcies occur.

Because of the time constraint, my focus on Bill 121 will be limited to three areas which I strongly believe are grossly unfair and punitive to the landlord. I do not believe these adverse results were intentional, but because of the urgency of the bill by the government, some implications of this bill may not have been fully understood.

The first area is changes in financing costs: very critical, very important. The minister's explanation for removing this category of cost is that it makes the rent control system simpler. Simplicity is a virtue if it does not compromise fairness. The government, under Bill 4, has already reduced the allowable financing to 75% from 85% of the building acquisition cost. Now Bill 121 wants to remove it entirely; financing does not exist. Well, it does. It remains the single most important cost component in a building. When this is removed, where the landlord does not have the opportunity to pass through any increase in financing costs, it leaves him vulnerable to huge losses and, yes, bankruptcy as well.

To be fair, if mortgage rates go down, a mechanism should be in place to reduce the tenants' rents, but if the rates increase, where is that mechanism, where is that ability for the landlord to raise the rents accordingly? There is

none under Bill 121. In its present form, Bill 121 represents a roulette wheel for the landlord.

1540

Should rates increase, the lending institutions will not renew the mortgage unless the landlord has the ability to pay down the mortgage. If he does not have the ability to pay down that mortgage, it will go under foreclosure and he will lose his equity.

The COLA clause: I raise that because I think in a sense it is ironic that in this social legislation we have in this province, the COLA clause is a prevalent presence. The structure, however, in the guideline increase formula to allow operating cost increases to form the basis for the guideline rent increase is based on passing through the operating cost increases only. In effect, the operating dollar profit before financing costs remains constant in perpetuity. Inflationary costs in subsequent years will erode today's operating dollar profit, resulting in inevitable landlord losses in real terms.

In an unfettered market system, normal price increases of products and services are factored into and reflect the inflationary costs of those products and services. Unions seek COLA clauses in wage contracts; non-union employees anticipate normal increases in wages each year. With Bill 121, no recognition is given to an eroding dollar profit because of inflationary factors. No COLA, no cost of living to the landlord.

The high-focus category of eligible capital expenditures is worthy of some comment. In that regard I have a backup calculation sheet that I would refer to. Personally, to cap rent increases for capital expenditures in order to mitigate inordinate rent increases is amenable to my sense of fairness. No problem. To shift the cost of these expenditures to the landlord, where no mechanism exists to recover these costs, is punitive and shortsighted.

Much publicity has been given by the government to the fact that the tenant is protected from inordinate rent increases, while the landlord is being given cost recognition for capital expenditures. Not true in this bill. The attached schedule A represents my building, which requires capital expenditures if the structural integrity of the building is to be preserved. The numbers cited in schedule A are realistic in nature and clearly show the fallacy of the proposition that a landlord is able to recover the costs associated with eligible capital expenditures. These numbers are real and expose the vulnerability of the landlord in maintaining the building in a proper manner. Should Bill 121 continue in its present form, the building will deteriorate if landlords cannot borrow funds for capital improvements, or landlords will go bankrupt trying to do the impossible. This landlord will lose in excess of \$250,000.

Critics of the landlord's position may say that his profit comes from the building's future capital appreciation. This is also a specious argument, since real estate does not necessarily appreciate. Indeed, since the government introduced Bill 4 and Bill 121, I submit residential rental properties have been reduced in value by between 25% and 40%.

I am not prone to hyperbole, but try to stick to the facts and the substances. I therefore would welcome the opportunity to

expand on any of my comments or answer any other questions.

The Chair: We have time for one short question from each party. Please proceed.

Mr Tilson: Mr Birnboim, I agree with one of your comments, that there is very little reference with respect to the retroactive loss. There is some reference in the transitional period and I submit it is not enough. Can you offer any suggestion for an amendment to the legislation that might appeal to the government to allow for people who have sustained a loss from the retroactive loss?

Mr Birnboim: I believe that in principle it should be recognized, because the decisions and the conducting of the landlords' affairs were based on the then prevailing laws. If the government is concerned about inordinate rent increases, perhaps it should stretch the impact that the financial loss may have over a greater number of years in order to mitigate those increases, but I think that the principle of doing something retroactive, which will incarcerate, as I mentioned, and execute many people in real terms—there are bankruptcies—is morally and legally wrong.

Ms Poole: Thank you for your very candid comments today. My question relates to your comment about the cap on capital expenditures. You stated that you really think this is fair, the concept of it, to mitigate high rent increases. How would you like to see the legislation amended so that it would be a fair cap, which would provide some sort of rental security to tenants but at the same time be sufficient to take care of the capital expenditure needs of the landlord?

Mr Birnboim: Again, in somewhat similar terms to financial losses, I think there is no justification for the 2% deductibility and that the capital of 3% should remain as a cap, but just allow it to stretch over a longer period of time so that the tenants are not hit with an inordinate increase in one given year, or indeed in two successive years.

Mr Mammoliti: First of all, just let me say that I had to disagree with you when you talked about the use of figures 25% to 40% of the market decreasing. I would have to disagree with you on a personal note. Second, I think it has a lot to do with the recession and the fact that the market is down at this point.

You brought up something earlier as well that I have to talk about. You gave two examples: bread costing a dollar, and shoes. Let me just say to you that, yes, people go out and buy bread and shoes, but they get something for it, and if the bread is stale, they get another loaf, or if there is a hole in a shoe, they get another shoe. With previous legislation, what did the tenants get if there was a bad landlord or a landlord who neglected his responsibilities?

Mr Birnboim: I believe there are provisions in place today—let alone with what Bill 121 is proposing—which would penalize what you referred to as bad landlords, people who do not maintain the standard as they should. I will not say that 100% of landlords will do it, but certainly the vast majority will.

Mr Mammoliti: That was the previous legislation.

The Chair: I am sorry, time has expired. Thank you for your presentation, sir.

1550

GOLDLIST PROPERTY MANAGEMENT

The Chair: I would like to call the next presenter, Goldlist Property Management. You also have been allotted 15 minutes and if you wish, you can retain some time for questions and answers. If not, you can use up the whole time.

Mr Griesdorf: Let me know when there is about five minutes to go.

The Chair: I will.

Mr Griesdorf: My name is Gary Griesdorf and I am here today representing Goldlist Property Management.

Goldlist has been in the business of building and managing apartments since 1958. In 1975, at the time rent review was first introduced in Ontario, we had built over 3,500 apartments. Since 1975, we have built an additional 2,000 suites. All of these units still remain in our portfolio. We do not sell our buildings, much less flip them. Until now, we have been able to manage and maintain these buildings with good, solid management practices.

Bill 121 is a dangerously flawed piece of legislation. This is not a politically motivated statement. I am telling you, as a reasonable person, that Bill 121 is a product of illogical and poor legal drafting. Its vague language, its contradictory sections and its silent gaps leave all who are affected, both landlords and tenants, in a position of extreme uncertainty.

In the interests of time, I am going to present 15 recommendations which I think keep in mind the current government's philosophy on rent control but will perhaps allow and enable proper maintenance of the province's aging rental stock, while keeping intact the government's intention.

In accordance with careful planning and advice from professional engineers, we have designed a capital program which will protect the physical integrity of our apartment buildings. Normally we plan these major capital expenditures to be completed over a number of years. This results in lower annual increases for our tenants.

In one complex of 1,000 suites built in 1969, \$5 million was spent in 1990 for such things as replacement of roofs, garage repairs and plumbing replacements. These \$5 million of expenditures would have resulted in an increase of approximately 7.4% over the statutory guideline, commencing April 1, 1991. However, Bill 4 blocked the application from proceeding. Now Bill 121 proposes we might be able to claim only 3% over statutory. Because of the bill's confusing wording, we are uncertain whether there will be any carry-forward for the excess we have incurred over the 3% and, if so, whether there will be an automatic deduction of a further 2% from statutory.

All Bill 121 will allow us to recover is a possible \$300,000, but not until mid-1992, after we spent \$5 million in necessary capital expenditures in 1990. We have to pay \$600,000 annual interest on this \$5-million debt, not including any repayment of the principal. After just two years, this will be a loss of \$1 million.

There is no logic in deducting 2% from statutory for any carry-forward. Mr Cooke had previously stated that each year's statutory increase includes 2% for sundry capitals. If he, or the ministry, deducts 2% in subsequent years for carry-forward awards, it eliminates the 2% available for that year's sundry capitals.

At a recent tenants' association meeting where Margaret Harrington, Gary Malkowski and I were guests, the tenants themselves appeared to agree with our desire to complete the plumbing replacement and garage repairs that were only partially done in 1990 but were stopped by Bill 4. Unfortunately, Bill 121 only speaks of work completed between January 1, 1990, and June 6, 1991. What about this type of work that is done after June 6, 1991, but prior to the passage of this bill? The tenants want to see this work finished, our company would also like to do this work now, but the cap carry-forward rule states that if we did work in 1990, we are prevented from recovering for new capital work done until 1993.

Mr Cooke had repeatedly announced that those landlords who did capitals in 1990 and who were caught under Bill 4 were going to be fairly treated under Bill 121. We are not sure if he fully understands how unconscionable his proposed fair treatment really is.

This leads me to my first set of recommendations:

1. All capital work caught under Bill 4 should be reviewed under the laws of Bill 51, since this work was legally undertaken during the lifetime of Bill 51.

2. Capital work commencing after June 6, 1991, but before Bill 121 is passed should be covered under Bill 121's rules but using Bill 51's regulations relating to interest and useful life amortization.

3. The 3% cap over guideline for capital works should be raised to 5%.

4. If, under Bill 121, the rent officer's findings justify an increase above the cap, the rent officer shall order the excess be carried forward without any further deduction from statutory until the excess has been fully recovered.

Amendments such as these will go a long way towards getting many of the unemployed renovation workers back to work now, instead of waiting until 1992. Bill 4 clearly caused these layoffs, and the uncertainty of Bill 121, unless clarified, will not bring them back to work for a long time.

Under neglect, Section 15 creates an unexpected double bind because of the vague use of the term "neglect." According to this section, a capital expenditure is allowed only if it is "required," but will be disallowed if it is a result of "neglect." At what point does a new roof become "required" before it becomes the result of "neglect"? Is there one month between a required plumbing replacement and a neglected plumbing system, or one year, or one minute?

5. Reference to neglect should be amended to read "ongoing deliberate neglect."

Under energy conservation, Subsection 15(2) of the bill states that a capital expenditure is eligible if it increases energy conservation, while section 24 calls for a reduction in rent if there is a decrease in energy costs. What landlord would want to risk spending money on an

energy conservation capital program when the end result will be a reduction in rent resulting from this expenditure? It is almost certain that no lender would advance the money knowing the money will not be there to be repaid.

6. Eligible capital expenditures that increase energy conservation should not be considered for reduction until after the useful amortization of that particular capital expenditure has been completed.

Under work orders, The bill disallows increases in rent if there are outstanding work orders against the building. Sometimes work orders are issued without regard to the availability of replacement parts and seasonal restrictions.

7. Prohibitions against rent increases as a result of outstanding work orders should not take effect until a reasonable time period has elapsed, taking into consideration the particular circumstances, availability of replacement parts and seasonal restrictions.

I have serious concerns with the changes in the calculation of the statutory guideline. The 25% reduction, from two thirds of the building operating cost index down to 50%, will significantly reduce available cash-flow used for normal and necessary maintenance of our buildings. Comparing the operating expenses ratio to income in our buildings where there were no claims for capital expenditures since 1985, it varies from just over 60% to almost 78%. Reducing the statutory guideline calculation is not in the best interests of the tenants, since long-term landlords will have to cut back in certain areas, thereby preventing them from maintaining their buildings at a satisfactory standard.

Furthermore, almost all of the pre-1976 buildings were built in the 1950s and 1960s. In fact, 80% of Ontario's rental stock is over 15 years old. Older buildings have proportionally higher operating costs, especially in the areas of appliances, plumbing, electrical repairs and common area renovations.

8. To calculate the annual guideline, the "two thirds of BOCI" formula should apply to all buildings built prior to 1975, in addition to those that have fewer than seven units.

9. The per cent ratio of operating cost to revenue—that is, BOCI—should reflect actual cost ratios. That is, prior rent review awards over guideline for capital work must not be included in the revenue calculation. These awards distort the actual ratio.

Under extraordinary operating costs, I am further concerned with the 3% cap that includes extraordinary operating costs being grouped with awards for capital expenditures, since utility and realty tax increases are clearly beyond the control of landlords. How are we to deal with instances such as the proposed 44% increase in hydro costs, or the increases in realty taxes for the buildings where market value reassessment results in increased assessments?

The Chair: Five minutes left, Mr Griesdorf.

Mr Griesdorf: What happens if capitals were completed in the same year?

10. Any cap established over statutory should relate only to capital expenditures, and any increase as a result of extraordinary taxes and utilities over which the landlord has no control should have no cap.

Under administrative procedure, I feel the legislators should really look at this area carefully. We are confused as to why, if there was so much complaint in the past about decisions by administrators, a recommendation has been made that there should be a single hearing before a single rent officer. We do not understand how that could end up in a proper decision every time. If a substantial error is made but it is not one relating to law, one of the parties will be adversely affected. It may be the tenants and it may be the landlords. It is going to lead to even more frustration with the rent system.

On the face of it, this is a breach of fundamental principles of our democracy. Why should the government put itself in this position? Either allow for an administrative review, following which an appeal is available, or ensure at least that the single-hearing process be held before three rent officers.

I have given you four recommendations about that administrative review.

12. Unless requested by either the landlord or more than 25% of the tenants, a rental application shall be reviewed by an administrator and such decision may be subject to an appeal on questions of law and fact.

13. If a hearing is requested to review a rental application, the hearing will consist of a panel of three rent officers.

14. If for any reason the hearing is held before one rent officer, the decision shall be able to be appealed to a hearing consisting of three rent officers.

15. Any hearing shall be limited to the issues in the application but can be expanded to issues raised by either party in written submissions filed within 60 days after the application was first made.

We are proud to be landlords and only want to stay in this business. Today the Premier came to a crossroads and made those adjustments in his cabinet he felt necessary to provide better leadership for the province. So also do I hope that the Ministry of Housing, under the direction of the new minister, will recognize and implement those adjustments necessary to permit the buildings in Ontario to operate properly under Bill 121.

1600

Mr Turnbull: Mr Griesdorf, thank you. Excellent recommendations. I do not have to ask you a lot of questions because you have obviously done your homework, you understand the legislation and you have made sensible proposals.

Can you just comment on the implication for landlords of remortgaging buildings as a result of both Bill 4 and now Bill 121?

Mr Griesdorf: Certainly the remortgaging is going to cause a problem for those people who have not planned well enough in advance, especially with respect to increased mortgages. We ourselves were faced with one where a long-term mortgage expired at 10.25% and we actually made the choice to go for a one-year term at 10.50% because we could not afford a longer-term mortgage at 11.25%. We are making perhaps uneconomical decisions in order to comply with the rules in Bill 121,

recognizing that we cannot get an increase. I am concerned about those people who will have such increases.

Mr Abel: The list of recommendations that you have given tends to be beneficial to the landlord, and we do appreciate that information. I was just wondering if you had any recommendations that you feel would be beneficial to the tenants.

Mr Griesdorf: I think Bill 4, and even some recommendations that were made last year, address that—the idea that the tenants get involved in certain capital expenditures that might be done in their own suites. Our organization has often met with tenant organizations to try to find out what it is they would want in the building. As a matter of fact, we have even put in certain changes; for example, we gave temporary parking areas for tenants when they had to be removed from their garage. So we deal with the tenants' associations.

I think communication goes a long way. I just hope we are not working towards going from Bill 51 to Bill 4 to Bill 121, where we are cutting out this communication and instead have controversy. I would like to see better communication in order to solve those problems.

Mr Abel: Any suggestions for financial difficulties that some of them have faced?

Mr Griesdorf: Are you talking about the comment of the previous speaker about increases in financing, or are you talking about financial loss?

Mr Abel: Basically, your opinion on how you feel they can find some financial relief from high increases; things like that.

Mr Griesdorf: You are talking about tenants, how they could find some relief?

Mr Abel: Yes, tenants.

Mr Griesdorf: I think you are talking about just through rent increases. I feel that providing a cap on annual increases, for whatever the purpose—whether it be a combination of capitals and a combination of extraordinary cost increases which may include unusual interest increases—would protect the tenant. I feel there is somewhere a level of consensus that could be reached that the tenant could be faced with a maximum increase with all of these combinations.

It is very restrictive to try to group everything under one limit of 3% and then hope all these things can be covered. We can look after maybe the planning for the capitals. We cannot look after things that we have no control over, such as taxes, utilities and interest.

The Chair: Very good. Thank you for your presentation. Time has expired.

SCARBOROUGH TENANTS ALLIANCE

The Chair: The next presenter is the Scarborough Tenants Alliance, Heather Dean. The committee has allocated 15 minutes for your presentation. You can withhold some time for questions and answers.

Ms Dean: Fifteen minutes is not long enough to even touch the highlights, but first I would like to make a sort of snivelling appeasement gesture by saying that tenants are

very grateful to this government for ending the depression. I do not think this government has taken sufficient credit for doing so, because it is saying that it chose in the budget to fight the depression and not inflation. It is failing to point out that it had already shot inflation right through the forehead with Bill 4. We have heard from provincial premiers for years that the only inflationary pressure in the country that was keeping interest rates as high as they were was inflation in the rental housing market in southern Ontario. So when you do the right thing, we are capable of seeing it and we are capable of saying so. I hope you are appeased.

Bill 121 is not the right thing. STA is a group of Scarborough tenants who were chosen by the ministry to be its Scarborough consultation group. We met each other one night and were given 10 minutes to speak to consultants on lines that were laid down for us before the meeting began. We kept meeting and we produced the document that you see before you, which I hope you will read.

This has been distributed to several thousand Scarborough tenants. The response from tenants is: "This is us. This is wonderful. This is us." We had a senior civil servant who said, "This is the best-written, best-reasoned social democratic document we have seen in 20 years." The response from the NDP is to phone around to constituency offices and say: "This is trash. Don't read it." I hope you will.

The NDP has a problem with it because, as opposed to tenant advocates, tenants get mad and tenants get rude. We have tried to speak for tenants, and we have tried to speak to some degree in their voice. There are a couple of statements in here which the NDP does not like. One of them is, "The government is proposing to violate our human rights," and one of them is, "This is not the best rent review legislation we have seen; it is the worst." I would like to address those two points rather than the substantive parts of this, because that seems to be our sticking point in our dialogue with the NDP.

First, internationally, shelter is recognized as a basic human right. The UN recognizes it as a basic human right. The federal Tories have joined in that consensus, which we think is sort of funny. The provincial government has joined in that consensus, which we would hope was more serious. But we see that in fact people have some trouble with that concept. They have some trouble with relating the right to housing to other things they are accustomed to thinking of as basic human rights.

I think that perhaps where you go to solve this problem and be able to see that in fact housing should be right up there with the right to food, the right to health care and the right to education, which at least some members of our society do now recognize as rights, is by seeing where they stand in the life of an individual person. A person who has received a notice to pay his rent or move out will sacrifice food to do that. If you ask the food banks, they did a survey in February. They found that 75% of people going to food banks were two-income families, and 71% of all their clients surveyed identified rent increases as the budget pressure that drove them to the food bank. So food is a

basic human right, but it is one that tenants put second to paying the rent.

Health care: I have been to a doctor who came to Canada from a social democratic country, who quizzed me really carefully on whether I was going to fill a prescription and finally said that it took her a long time to learn when she came here that when she wrote a prescription, people would not fill it if it was going to be so much money that it meant they could not pay the rent.

Education: There are an awful lot of wives who have dropped out of their English-as-a-second-language class to go to work to pay the rent. There are a lot of kids who are going to be pulled out of school to go to work to pay the rent. There are a lot of kids who are going to be working nights and weekends, when they might be studying, which is going to compromise their education, to pay the rent.

In the lives of individual people, housing is right up there and possibly even ahead of food and health care and education. It merits being taken just that seriously.

I think some consequences should flow from recognizing housing as being that important to the rights of people. One is that you do not do a balancing act between housing, which has been recognized as a basic human right, and the right to maximize profits, which may be a basic human desire but has certainly not been recognized as a basic human right by anybody except all of the landlords who are coming before you. Mind you, they are still trying. I believe there is still a charter challenge going. There have been a number of them. They have been trying to get the courts to agree that maximizing profit is a basic human right, but they have failed. I think the balance of society believes that profit is something that you earn if you are lucky, and if you make an investment and you lose money, which I have done, you do not go to Amnesty International.

Another consequence, I think, that should flow is that housing policy should not be sacrificed to send a signal to business, which Conrad Black is not going to listen to anyway and is not going to care about anyway, or that this government is prepared to back off its policies in response to consultation with business. I believe that is what has happened, because what would have addressed the situation we are in now and would have done it more or less adequately, certainly would have improved the housing crisis, would be the policies you promised us. These included costs no longer borne, which are described in the blue paper in some detail, some of the provisions that might have been made, which was part of the NDP-Liberal accord. In 1985, the NDP could see this as a solution to the crisis and tried to impose it on the Liberals. They weaselled out of it, but none the less it was policy.

1610

During the election, you were advocating what is sort of the California plan for rent controls—it is in place in Berkeley, Santa Monica and a few other jurisdictions in the United States—which includes no cost pass-throughs over inflation. California has a lot in common with us in terms of, first, income spread—a lot of people pretty wealthy and a lot of people working in the grape yards—a lot of in-migration, a lot of inflationary pressure in the real estate market. The plan that was adopted as policy before the

election has been tried and been successful in a constituency a lot like ours. We think at some point you are going to go back to it and we hope it is not after a body count of tenants with what we have now.

We think this legislation is a crashing disappointment because of the timing. If this had been the RRRA, it would have been fine. It would have been the best legislation we had seen and it might even have been adequate legislation. However, it is additive, and this is something that I think the party has trouble grasping. Tenants have no trouble at all grasping it, because I am going to go down and pay the rent tomorrow morning and it is going to contain all of the rent increases that were allowed by the RRRA and any rent increases that are allowed in the future are going to go on top of that, so I am very conscious that this legislation is incorporating all of the things that happened to me before.

People who are paying 5.4% this year who paid a 66% increase last year, like the people in the building across the street from me, are going to be well aware that they are paying a 66% rent increase still. It has not disappeared. In fact, people's rents contain the increases that were put through in the early 1980s when their landlords remortgaged at 20% and 21%. The landlords have since remortgaged at 12% or 11%, but the rents still contain the 20% financing cost, which they do not mention when they are talking about their remortgaging this year.

Because this stands on the shoulders of all the preceding legislation, we judge it by two simple things: How much rent are we going to pay tomorrow? If we have to go out and find a place, what are our chances of finding a place we can afford to live in? By those two criteria, we are calling this the worst, because it is standing on the shoulders of all the other legislation that has gone before it and therefore is incorporating it. The fear has been expressed to us that opposition members might use that statement to wave in the face of the government, and I have suggested that, should they do it, we would be happy to hold a press conference and tell them what we thought of the preceding legislation, although some hints of it are in the paper.

This allows for a 17% rent increase over two years, a 25% rent increase over three years, or more, depending on what the guideline is. I think the rental housing market now cannot stand that. It is going to economically evict more people than anything that has happened before. It is too late to put a ceiling on. I mean, the ceiling already comes on. An apartment building that has had a 50% rent increase cannot have another one.

The Chair: Five minutes left, Ms Dean.

Ms Dean: Thank you. We are now hearing that there is a 1.5% vacancy rate, and some people are seeing that as cause for hope. I will tell you where some of those vacancies are.

I mentioned 3895 Lawrence Avenue. It just had a 65%, 66% rent increase. It varies a little bit because there was also equalization. The tenants there hired an electrical engineer to come in and inspect the building for the \$500,000 worth of electrical repairs that were part of that application, and the electrical engineer reported they had not been

done, but they were none the less passed through to the tenants. That place has been advertising one-, two- and three-bedroom apartments vacant for about eight months now.

Tuxedo Court has 850 rental units. In December they had an appeal decision on the 1988-89 rent review decision. The landlord had been awarded 14%. In December it was raised on appeal to 24%. Last month they got their decision on their 1989-90 application, which was 22%, plus of course in January they got their 5.4%. Now under Bill 121 the landlord will be back with another application for a further increase based on work done in 1990, up to June 1991. So their rents in effect went up 50% in six months. A lot of tenants have left there, the parking lot is practically empty, but some tenants cannot get out. They are getting notices for \$1,200 per month. They are going to try to rent a place for \$750 and they are told they do not qualify because their income is not high enough to pay \$750.

They are trapped in there. They cannot escape. Their lives are being trashed. They have arrears now for these rent increases for two and three years that amount to thousands of dollars. Their credit is wrecked. This is another reason why they cannot get out, because if anybody does a credit check, their landlord is showing them as thousands of dollars in arrears. If this were 850 people laid off, the government would be sending a team in there to help them relocate.

I do not want to go into details—we have gone into them intimately—but I would like to refer you particularly to two things in here. One is our preamble, which is talking about the extent of the housing crisis. One thing I would like you to note in there and take a look in the paper yourselves is that there are several hundred people per day advertising in the newspapers to share their accommodation with a stranger. These are two-bedroom apartments with one bedroom for rent, three-bedroom apartments with a master bedroom to rent. This is no longer a bunch of houses down around the University of Toronto the way it used to be in my day. People are doubling up and worse.

A lot of these people, if surveyed, are then going to be paying less than 30% of their income for rent. I think we have dealt for ever with the 30% standard as an index of whether we have a crisis or not. I think if you read the analysis of that and the application to some sample budgets, you will never again be able to use it. We think two thirds of renters have affordability problems, not just the one third who are paying more than 30% of their income for rent; 30% of your income for rent is fine if you are a bachelor and you make \$30,000. It is pretty bad if you have four kids and you are making \$15,000. There is no way you can meet that standard.

The other thing is the section on what is currently in the rents and what is in the guideline. Again, we are talking additively. I think Leslie touched on this earlier. We go year by year and dollar by dollar, so there can be no question about the mathematics of it, what is in the guideline now.

The extra 2% that is thrown on top of the cost inflation index, which the NDP was really funny about when the

Liberals first suggested it—they were saying this will be a capital cost allowance. I remember David Reville saying: "Anything's possible. Sure, the landlord might spend it on capital. On the other hand, he might spend it on a trip to St Moritz."

This extra 2% amounts this year to \$70 per month, on average, for Ontario rents. We are showing you bit by bit how we got to that figure. That amounts to \$2 billion that tenants have collectively paid over cost inflation since 1986. The Rent Review Advisory Committee was told, "At the end of a couple of years, if you think this money is not going to be spent on capital expenditures, we'll go back and take a look." Well, the years are up and it is time to go back and take a look. We have paid them \$2 billion and they have not spent it.

The Chair: Thank you, Ms Dean. The 15 minutes have been used up. Thank you for your presentation.

1620

O'SHANTER DEVELOPMENT CO LTD

The Chair: The next presenter for this afternoon is O'Shanter Development Co Ltd. We will be following the same procedure.

Mr Krehm: I have been here before, thank you. I apologize in advance. I seem to have a bit of hay fever, and if I sneeze, it is not because I am allergic to you.

My name is Jonathan Krehm and I want to thank you for the opportunity of appearing here today. I am one of the owners of the O'Shanter Development Co Ltd, a family business which manages some 2,800 apartments in Metro Toronto. We have been in residential property management for over 25 years. In our organization I have overseen our rent review department for the last nine years. In that capacity I have acquired experience and some knowledge of Ontario's rent control regime.

The first thing I would like to do is correct some facts or statements made here that are not entirely true. It was stated that in Vancouver there is a serious problem because there has been no betterment of the rental market after ending rent controls. After the end of rent controls in British Columbia, rents in the Vancouver market fell for the three years following the ending of rent controls. This year, the vacancy rate in Vancouver is 2.3%, up from 0.9% in October 1990. The market in BC is functioning properly, and let us not pretend otherwise.

The other thing that was stated is that tenants' rents as a percentage of income have fallen and that tenants' affordability in this province has been deteriorating. For many tenants that is the truth because rent controls or rent review have never addressed the problem of affordability. But CMHC statistics have been kept since the late 1970s that show very clearly that on average tenants now spend 17% of their income on rent as opposed to the 25% they did in 1978.

Mr Cooke has pulled a masterful stroke in presenting this legislation as if it involved concessions to the rental industry. The process set up in this bill is radically different than in previous rent control legislation. This is above all a regime to reduce rents. In theory, a landlord can apply under section 13 of the act for an increase above the guide-

line. If he or she reads the fine print and understands the mechanism that such an application triggers, what emerges is frightening and unpredictable.

Section 13 unfolds as follows: A landlord may apply for an order increasing the rent by more than the guideline. Such application may be based on an extraordinary increase in municipal property taxes, hydro, water, heating costs, certain eligible capital expenditures or for the cost of a new service consented to by a tenant. Proper notification and explanation are mandatory. Rent increases are to be taken only once every 12 months. All units are to be considered. Then the trap door opens.

Subsection 13(7) states:

"Before making an order on an application under this section, the rent officer shall consider whether the amount of the increase should be limited or the maximum rent reduced because of any of the matters set out in sections 25 or 26, and,

"(a) if the landlord has based the application on section 14, the rent officer shall consider whether the amount of the increase should be limited or the maximum rent reduced because of any of the matters set out in section 24."

When we go to sections 24, 25 and 26, we discover these are the sections which define the grounds for a tenant to make an application to reduce rent as set out in section 23 of the bill. In other words, if a landlord makes an application for a rent increase, he triggers an application for rent reduction. Please note the wording of subsection 13(7), "Before making an order" on an application under section 13, the rent officer "shall consider" whether the rent shall be reduced.

Let us look at these reasons for rent reduction. Sections 24 and 26 are reasonably straightforward. If a landlord experiences an extraordinary cost decrease in taxes or utilities, or if he or she discontinues or reduces a service or facility, the rent may be reduced. However, section 25 is a catch-all. It states, "The tenant may base an application on whether the standard of maintenance or repair of the rental unit or of the whole residential complex is inadequate."

Let us look at these words "inadequate maintenance." What do these two words mean? Perhaps anything one wants them to. Such open criteria will become an incentive for tenants to prevent maintenance being done and for the less scrupulous to vandalize both common areas and even their own apartments. There is extensive evidence that such provisions in other jurisdictions work exactly in this manner.

I would like to read an excerpt from *The Excluded Americans, Homelessness and Housing Policy*, by William Tucker, a book that outlines American housing regulations:

"The solution is always the same. Sooner or later, someone will come up with the bright idea, 'Why don't we let tenants enforce the housing code by giving them power to withhold rent, or even receive permanent rent reductions, if the landlord doesn't maintain his building?' And so, procedures for rent reductions and rent strikes will be formalized.

"What political leaders do not want to acknowledge is that, in both the short and long run, tenants are generally far more interested in not paying rent than in worrying

about the overall condition of the building. Tenants will demand rent reductions for the most trivial complaints. Since the rent board is almost always loaded with tenant activists, the whole process soon becomes a kangaroo court. (When Berkeley landlords finally elected one property owner to the rent board, the board decided she was not allowed to vote. Ownership was a 'conflict of interest.')

"In Santa Monica, the rent control board has voted such awards as a \$35-a-month rent reduction because a tenant's garbage disposal broke down on Friday night and the landlord didn't have it fixed until Monday morning. Another tenant was awarded an \$81-a-month reduction because eight of the little rubber prongs on the dishwasher were broken. Still other tenants have gotten \$25 rent reductions because the plastic covers on electrical outlets were cracked.

"Finding building code violations soon becomes a sport, one that rich and poor alike can play. The affluent will form committees and comb their buildings with righteous indignation. The poor may just continue to break things out of habit. Either way, the rent reductions mount up. When trivial violations can't be found, it is always possible to create a few. A broken window, a damaged mailbox, a missing smoke alarm—all may be worth sizeable rent reductions in what becomes known as the 'violations game.'"

Section 25 as presently worded creates such uncertainty that no lender who becomes aware of the potential that all rents in any property could be reduced will consider lending in this sector. That includes mortgage renewals also. As a result of Bill 4, most life insurance companies have already entirely ceased to lend in the residential rental sector in Ontario.

I want to stress this point because if I were a lawyer—I am not a lawyer, but I do know something about residential finance—and if I were acting for a company lending on an apartment building, I would put a provision in the default provisions on a mortgage now that if a landlord made an application under this bill without first getting the prior consent of the lender, it would be an event of default, because these are not applications to increase rent, they are applications to first reduce rent, and if you go through that maze, maybe you will get an increase on the lower rent.

Under clause 38(2)(d), a landlord who has received a municipal work order may have rent increases stayed or his or her rents reduced after 30 days. This seems to be intended to prevent the appeal of work orders where such appeal rights exist under a municipal bylaw or the Planning Act.

In cases which involve large construction work either for repair or code-required retrofitting, municipal authorities may often be satisfied with work that takes many months or years to complete. The 30-day rent penalty bears no relation to reality. In 1984 our company, O'Shanter Development, undertook what at the time was the largest residential garage restoration in Canada. It cost \$1.5 million and took over two years to complete. The city of Toronto was satisfied with the progress at the time. Under Bill 121, no construction financing would be available because rent penalties could be imposed at any time.

It seems that Mr Cooke has decided to replace the economic feasibility of maintaining buildings with police action.

I just want to dwell a bit on this, because when we undertook that work it was very new. My brother, who is a civil engineer, spent over a year researching garage restorations, visiting jobs under progress throughout this province and in other jurisdictions. At the time, there had been several big jobs done in Toronto that had totally failed, both in commercial and residential buildings. People spent millions of dollars and it did not work. What you are saying here is that you will not allow something like that to transpire and you will not allow the economic conditions under which one may possibly look at such work. I think you should possibly reconsider this.

The reduction of the guideline increase by 20% for buildings over six units is characteristically malicious and irrational, attributes we have come to expect from this government. Units are not more expensive to run per suite because of the size of the building. The ratio of expense to income is really determined by the rents in the building. In plain English, the lower the rent, the higher your expenses as a percentage of rent are likely to be.

This guideline reduction brings the increase to well below the rate of inflation whenever operating costs rise more than 4%, most if not all the time. I have enclosed a copy of the city of Toronto's Cityhome budget for the next five years for its section 15.1 National Housing Act projects. These are projects that require them to break even. Please note that for the next five years they estimate an average building cost increase of 7.78% and average rent increases to be 8.28%. This is for 1991 through 1995. It is assumed expenses are 50% of rents and that we will be treading water, not drowning. However, precisely those buildings that have affordable rents will be penalized. I would have thought this government that claims to be interested in affordable housing would be concerned about driving just those landlords who do have affordable rents out of business.

1630

For buildings with expense-to-income ratios of 60% and over, there will be rapid deterioration in their financial viability. Real incomes of the reduced guideline sector will shrink. Declaring that a 2% portion of this guideline rent increase will be for capital expenditures is the sort of sophistry that the demagogues in the government party specialize in. We are going to reduce the income of the industry by \$30 million to \$40 million per year and work that the industry could not afford to do beforehand will now be done. Please tell me how.

In addition, the elimination of appeals, except in points of law, to the courts is offensive to those who have any concept of due process. I do not have time to discuss the search and seizure provisions of sections 113 and 114, something I would be surprised to see happen in a democratic country at all. Or the unworkability of the capital expenditure allowances. Recovering a maximum of 60% of one's costs is not viable.

I did not dwell on the capital expenditures because I would not make any. I cannot go to a financial institution to lend me money when I may be making an application to

end up with lower rents, and they would not lend me the money if they understood the situation otherwise, and I would not want them to understand anything but the whole truth. So I do not think there are going to be any applications. If that is what you intend, come out and be straightforward. If you do not want landlords to apply for capital expenditures, come out and set up a system that does not have that in there. Do not pretend there are applications that people cannot make.

Making landlords seek tenants' consent who can then unilaterally withdraw it is simply unfair. Those are the provisions for work done on apartments. You get the tenants' consent to do something, you go out and spend the money and the tenant withdraws his consent and your application disappears. What is the fairness in that? Someone agrees to something, a contractual arrangement, and they have unilateral rights under law to withdraw their consent? What is this? This is not fair ball.

Others, I know, will go over these aspects of this bill in detail. The thinking behind this bill is quite clear: Premier Bob Rae in an interview in the spring of 1989 that appeared in the Federation of Metro Tenants' Associations bulletin stated, "You can't talk about rent review till you talk about the structure of ownership, and that to me is what needs to change in the rental housing field."

In answer to the question, "How do you get the current private rental stock out of the hands of the larger owners?" He responded: "You make it less profitable for people to own it. I would bring in a very rigid, tough system of rent review. There will be a huge squawk from the speculative community, and you say to them, if you're unhappy, we'll buy you out."

These irresponsible, vindictive statements outline a strategy of vandalizing the economic feasibility of over one million apartments with the object of gaining a price advantage that the government cannot even exploit because it does not have the money.

Is this Mr Rae's idea of partnership with the private sector? Please, prove me wrong. Amend subsection 13(7), remove section 25, restore the guideline to its present level and if you really do not believe in private sector rental housing, buy us out.

Mr Mammoliti: Mr Krehm, you sing like a bird. It is fascinating listening to you. One quick question: Have you ever, in your professional life as a landlord, taken the 1% or taken your profit out of your buildings and used it for investment elsewhere?

Mr Krehm: There are a lot of assumptions behind that that are so silly. To begin with, (a) you assume I have a profit, which I may or may not, (b) you assume that 1% of profit—

Mr Mammoliti: There are no assumptions. Just answer my question.

Mr Krehm: Would I try to get capital out of this province? Please, I would try to get capital. I would want to be somewhere else.

Mr Mammoliti: Have you ever taken—

Mr Krehm: Do I invest in other jurisdictions? Yes.

Mr Mammoliti: —the profit that you have made out of your tenants and invested it elsewhere?

Mr Krehm: My tenants or my buildings?

Mr Mammoliti: Your buildings or your building?

Mr Krehm: Do I have investments outside Ontario? Absolutely.

Mr Duignan: In other words, you have no interest in your tenants.

Mr Krehm: That could be your assumption. To come here and to be vilified, and that is your excuse for doing people out of business in this province—

The Vice-Chair: Thank you, Mr Krehm. Thank you, Mr Mammoliti.

Mr Turnbull: Mr Chair, I think we should ask Mr Duignan to retract that last comment. It is absolutely uncalled for.

Mr Duignan: I have no intention of withdrawing it.

The Vice-Chair: I am sorry, Mr Turnbull. I did not hear Mr Duignan's comment.

Mr Krehm: You have no interest in the voters of this province, I suggest.

Interjections.

Mr Turnbull: Excuse me, Mr Chair. If he is going to go on, we will go on too. This is absolutely uncalled for.

The Vice-Chair: You are right. It is all uncalled for.

EIGHTH STREET TENANTS ASSOCIATION

The Vice-Chair: We will have the next presentation from the Eighth Street Tenants Association, with Jacquie Buncel and Kuldip Battu. Welcome to the committee. As you know, you have 15 minutes to make your presentation. The Chair is forced to cut you off at that point. If you wish to have an opportunity to discuss your presentation with the members, you will have to allocate your time accordingly. If you would introduce yourselves for the purposes of Hansard, that would be appreciated.

Ms Buncel: Good afternoon. My name is Jacquie Buncel and I am a community legal worker with South Etobicoke Community Legal Services. Mr Kuldip Battu is a tenant who lives at 139 Eighth Street. He is involved in the tenant issues in his building.

We are here this afternoon to speak on behalf of the Eighth Street Tenants Association. The Eighth Street Tenants Association is a group of tenants which works to address issues in six buildings which are owned by the same landlord. These buildings are 135, 139, 143 and 147 Eighth Street and 148 and 170 Islington Avenue in Etobicoke. Other tenants from this association wanted to be here this afternoon, but they were unable to take off time from their jobs to come.

I am going to spend the next few minutes telling you about the problems which the people who live in these buildings have suffered under the current rent review system. I am also going to tell you about why we feel the new proposed Rent Control Act will prevent some of these abuses from happening in the future but will not address all the problems these tenants have experienced. Then Mr

Battu will tell you something about his experience of living in these buildings.

South Etobicoke Community Legal Services is a community legal clinic which provides legal assistance to low-income individuals in the south Etobicoke area. We work with tenants and tenants associations and one of the tenants groups which we have been involved with for several years is the Eighth Street Tenants Association. Our clinic has represented these buildings in rent review cases in the past and we are currently representing them in a rent review case on their 1989 and 1990 rents.

1640

The buildings which this association represents consist of about 240 units. The tenants who live there are low-income people who come from diverse multicultural and multiracial backgrounds. Many are new to Canada and many have limited ability in the English language.

Under the current rent review system, the landlord of these buildings was able to increase the rent over 30% in a two-year period. In 1989, the rent review office of the Ministry of Housing approved a 12% increase to cover his financial loss. Then the landlord applied for a 27% increase to cover capital expenditures involved in carrying out renovations to the buildings. These renovations included replacing windows, painting hallways, installing hall carpets, light fixtures and fire extinguishers and replacing the roof. No repairs were carried out inside the apartments of the tenants. For this, rent review approved a 21.7% increase for 1990. He also applied to rent review for another increase in 1991. Fortunately, his application for this increase was stayed by the introduction of Bill 4.

In the fall of 1990, when their 1989 and 1990 rent review orders came out, the tenants living in these buildings found that they owed over \$1,000 in rent arrears due to these increases. They are angry because even with these increases the landlord is still not maintaining their apartments in conditions that are fit for habitation.

Many tenants are forced to buy their own fridge and stove because the landlord will not supply them. Many tenants have to endure flooding in their apartments because the landlord refuses to address the need for repairs to the drainage system of the buildings. There are also problems with cockroaches and mice.

The tenants are concerned that while the new proposed rent control law, Bill 121, will provide them with some protection in the future from such extreme abuses of the rent review system, it will not go far enough in maintaining the affordability of their units or ensuring solutions to the problems of inadequate maintenance and repairs.

The new law proposes a cap on increases at 3% above the guideline. The tenants of Eighth Street and Islington Avenue in Etobicoke will never again, therefore, have a 21% increase in one year.

Another element of the proposed bill which will help them in the future is the provision that financial or economic loss cannot be passed through to the tenants in rent increases. They will also not have to pay if their landlord applies for the equalization of similar units in the building, hardship relief or below-market rents. However, under the new proposed law many tenants will have to pay increases

of 8% to 10% year after year in the future. Their rents will continue to rise above the inflation rate, exceeding their wage increases. As long as rents are allowed to increase faster than the incomes of tenants, the affordability of rental housing will continue to be eroded.

While the proposed rent control law attempts to limit capital expenditures which can be passed through to tenants to necessary expenditures, this definition is lengthy and includes items which should be construed as operating costs. The definition in section 15 of eligible capital expenditures is loosely worded and would include expenditures such as driveways, brickwork, electrical wiring and fixtures, plumbing, windows, doors, painting, elevators, worn carpets, drywall, roofing, energy-efficient appliances and other similar expenditures.

These are many of the capital expenditures which were approved by rent review for the Eighth Street and Islington Avenue buildings. Thus the tenants could be forced again to bear the financial costs of capital expenditures which did not benefit their units directly and which should be part of the landlord's ongoing maintenance and repairs.

Landlords are allowed a 2% allowance within the annual guideline to be spent on capital expenditures. Landlords should have to account for this that they have spent the money they have collected on capital expenditures for the past seven years, which is the length of time they are required to keep records for income tax purposes, when they apply to rent review in a future year for any increase based on capital expenditures.

Another aspect of the proposed law which might work to the disadvantage of the tenants of the Eighth Street buildings is the provision for rent increases if a tenant in a particular unit consents to a capital expenditure which would affect his or her unit. Landlords might pressure tenants to make these agreements and discriminate against tenants who would not agree to this expenditure, especially for tenants, like many of those in these buildings, who are new to Canada and whose knowledge of the English language might be limited. The potential for landlords to abuse this provision is enormous.

Finally, the proposed law does not go far enough in dealing with the serious problem of inadequate maintenance and repairs. For the Eighth Street tenants, maintenance problems are a paramount concern, as Mr Battu will be telling you. The existing system of municipal health and property inspectors is completely inadequate in getting action on maintenance and repairs. There is no long-term action from city inspectors to deal with the concerns of tenants in these buildings.

The proposed rent control law does not address the inability of many tenants to have local housing standard bylaws enforced and to get work orders issued. In addition, there are many opportunities for long delays in the rent penalty process that is being proposed.

Thus, while Bill 121 gives more protection to the tenants living in the Eighth Street and Islington Avenue buildings, it falls short in many important areas affecting low-income tenants.

I will now turn over to Mr Battu, who will be speaking about his experiences in the building.

Mr Battu: My name is Kuldip Battu and I live at 139 Eighth Street. I will stick to statements only on capital expenditure first and then I will talk about maintenance if time permits.

Recently I have paid more than \$1,000 of arrears for my rent review. This is from 1989 onwards. I went to India last year in September and there I got my leg fractured. I came back in January and then I was asked to pay more than \$1,000 on that capital expenditure.

Recently I have been to one the meetings for capital expenditure and there I saw he had charged for carpeting. He installed some carpet. There was no necessity for this expenditure because this carpet was not required. Whatever he charged—about \$77,000 just for carpeting—if anybody were to go and see it, it is of such poor quality that I think it cost less than \$3 a yard. Nobody there questioned whether the carpet actually cost so much or whether the quality asked for in the contract was there or not. Nobody is to verify that. Kids make it more dirty. Previously a sweeper, a cleaner was there. He used to clean the floor. Now nobody comes to clean the floor. It is so dirty now.

For roof replacement he has charged I do not know how many hundred thousand dollars. There is a difference between roof replacement and roof repair. He has charged for roof replacement. He has put it there. The wording is twisted—"roof replacement" and not "roof repair." No roof replacement was done.

Before these expenditures are incurred, who looks at whether these repairs are required or not? Only the landlord and the contractor. Whether the thing is worth so much or not, the bills are simply produced and cheques are made and they confirm that, "Yes, this is done," when actually the job is not done. Who confirms how the payments are being made? I do not know.

He has said that some doors are to be replaced. They are to be installed, not replaced—new doors, security doors. I have been paying for those doors since 1989 and so far, no instalment of doors has been done. I am paying for that. Who confirmed it? No one. Simply, he produces a bill at rent review and says that these things are there and that he made the cheque payments on them. How, I cannot understand.

Similarly, he charged for the fire extinguishers. Fire extinguishers are not placed in all the buildings; 10% are not there. If there is a fire in the building, it will be due to the electrical connections, because this building has only two-prong connectors, not three. I buy a fan, a refrigerator, a VCR or a TV; how am I to connect these things? I cannot do that. When I go to the market and say, "All right, I want this thing," they say, "You can take an extension," but it is illegal. If there is a short circuit, or something happens, who is responsible for that? These things are not looked into.

1650

He is spending so much money for renovations. There was no necessity to replace the windows. They were very good windows. He says he has to do this and he says there is plastering and some painting to be done outside. Inside he is not doing any painting. I have been there for the last 10 years and no painting has been done—never—and he

says outside painting has to be done. He says it is done, but it is not done. It is still incomplete. The payments have been made and I have paid for that. Then about security with our doors, he says all the tenants are to purchase these keys. They have to go to that particular shop and get the keys made. That time I got the keys made. A key cost \$14. He said, "How many of you are there?" I said myself and my wife. He said, "All right, but just two keys"; \$28 of no use; they are simply lying there. The doors have not been installed. This was one and a half years back.

Regarding this, I have seen in the guideline that they say repairs. There are some procedures laid down. They say you report to the landlord or the superintendent and then if he does not complete your job order, you report to the building inspector. If he does not take care of it, then report to the authorities and all that. I do not know that, there is no pollution there. If some immediate repairs are done, what is to be done? These appliances he has supplied, I do not know how long ago they were purchased, about 110 years, but they are useless. Suppose something goes wrong with the fridge and I keep on reporting to the superintendent and then to this inspector and it takes 15 days. The job is not done. How will I keep all my things there?

The Vice-Chair: We have time for a question.

Mr Tilson: The comment was made that incomes are not keeping up with rents. I challenge you on that, because if you look, figures that were given by CMHC for the last ten years have indicated quite the contrary. From 1979 to 1987, the average annual percentage increase in income was 7.4% and for rents for a two-bedroom apartment was 7.4%. It was the same. For 1987 to 1989, the average annual percentage change in income was 10%, with the average annual increase for rent dipping to 6.5%. For the ten-year period of 1979 to 1989, the average annual percentage change in income was 7.9% and the average annual percentage increase in rents was 7.2%. I suggest that you check your facts with respect to that information because those are figures that have come from Canada Mortgage and Housing Corporation.

Ms Buncel: I believe you can cite any statistics you like that you feel would prove your point in relation to incomes—

Mr Tilson: It is not a point. I was giving you a fact.

Ms Buncel: —and rent increases, but from my experience in working in our clinic, I would like to point out to you that the most common problem we deal with is economic evictions, and that is for tenants who cannot afford to pay their rent mainly because they have had a very large rent review order placed on them and they cannot pay the retroactive rent arrears.

Mr Tilson: That is a different matter.

Ms Buncel: I do not believe that is a different matter.

Mr Tilson: It is. It is quite different.

The Vice-Chair: Unfortunately, your time has expired.

Mr Tilson: Mr Chairman, I would like to speak on a point of order. I am having a lot of difficulty with the procedure that is being followed this afternoon. We are

here to listen to delegations. We are here to listen to what individuals have to say. We are here to ask questions of clarification. Perhaps I may say something and a delegation may say, "No, you are wrong," and correct me. We are here to ask questions of clarification.

It may well be that we do not understand what an individual is saying. We are here for a large number of reasons. This afternoon either there are no questions being allowed, or one party at a time is being allowed to ask questions. It is totally wrong and unfair and is becoming a mockery, as far as these proceedings are concerned, as to what this committee is going to be able to develop as a recommendation to the Legislature. We will not be able to properly prepare a report simply by sitting here and listening to delegations without being allowed to question them and ask questions of clarification. I am asking members of the committee to revise the procedure. We have set 15 minutes for each delegation, but surely to goodness each party can ask at least one question of a delegation.

Mr Mahoney: If we take time to debate this now, we are just going to be further in a jackpot. I suggest we finish the day's proceedings, as unacceptable as they are to me as well, on the basis that we have been functioning, or not functioning, and that the steering committee look at some way to review this process. Obviously the solution is more time.

Mr Mammoliti: I would agree with Mr Mahoney. I think the steering committee should talk about it and then come back to us.

Ms Harrington: I just want to comment on behalf of the party. I was talking to Ms Poole outside and we both have this problem that we are not satisfied with the proceedings, although I must recall to everyone that it was this committee that decided 15 minutes per presenter was adequate, having had 20 minutes before in February—10 for the presentation, 10 for questions for individuals. We are going to have to find another way of doing this and I hope the subcommittee can do it.

The Vice-Chair: As you are aware, the Chair is at the direction of the committee. If it is acceptable, we may discuss it at the end of the day. We still have five presenters who need to be heard before 6 o'clock and I suggest we follow what I see to be a consensus, the same pattern for today and have it discussed later.

Mr Tilson: I agree. If this is the tone of the committee for the rest of the session it must change, but these people are here and we should proceed for the rest of the day.

FRED SUKDEO

The Vice-Chair: The next presenter will be Fred Sukdeo. Good afternoon, sir. You have been here for a bit, I think, so you have seen the way the committee has proceeded. You have 15 minutes to make your presentation. You can use that time as you will. If there is some time left, the members have an opportunity to discuss your presentation with you.

Mr Sukdeo: I am happy to have the opportunity to present some thoughts on this very important bill. I wish to remind members that housing, by United Nations charter,

is a right and not a privilege and as such any government that really represents the electorate has to take those requirements into consideration.

There are obviously in this bill the two sides of the scale, landlords and tenants, and one has to take into consideration that there are rights and obligations or duties on both sides.

I wish to bring to your attention that the function of rent has its supply and demand ramifications, and that the price mechanism we identify, or which is being identified in the society, is a result of the market economy which has its own equilibrium based on market forces. Any extenuating circumstance within the society or within the economy can very well shift the equilibrium of the price, whereby the whole concept of rents and rental norms can be amended.

In order to stabilize what can be the skewedness of any shift in the rental parameters, it is important for a state to intervene. If you were to take the Keynesian model of state intervention, or the neo-Keynesian model, you would find that it is important to fix certain norms where there are parameters of maximum and minimum. In this particular case, the present government is the determinator in fixing a norm.

One has to take into consideration that this government was elected by the people of this province and has a very clear mandate to ensure that rents have certain levels. It must reach levels which are commensurate with the affordability of people, and obviously the government has to take into consideration that there are many cross-sections of the population that are subject to rent increases. Averages obviously are very important, and I have heard the figures which have been given. We know how averages are built up. Consequently, we must be aware of the fact that the vast majority of the population of this province are tenants, a very substantial proportion. You have the figures. These tenants have been subject to rapacious landlords who have been exploiting them over time, without the consequences of understanding what that does to the total economy.

1700

I wish to advise you that we must take into consideration, from the standpoint of the landlords, what their requirements are. A landlord as a business person, and like any other business person expects something from his investment. If he is a landlord and he takes his money to spend, he is no different from any other investor. In the case of housing, the landlord expects to have an adequate return on his investment, whether that rate of return is 5% or 10%, and we can argue over that, but he ensures he wants that.

Second, the landlord is interested in preserving the structure of his building so it will not deteriorate as an asset. This leads to the other point, that at the time of sale he must have a reasonable return on his investment. His property must be intact. The amortization of the property must not be in such a way that he is going to lose in the long run.

Finally, the landlord, if he is a good landlord, will use his asset as collateral to acquire further capital for investment.

This is very important. Many landlords are doing this, particularly the big landlords. They are using their properties and getting further loans and this is not reflected at all in their incomes or in their statements.

If we were to build an econometric model, taking these factors into consideration, and we tried to quantify the inputs that go into these variables, one would find there is evidence that the rental increase should hover around an average of the inflation rate for about three years. This brings us to the point about the average of 4% to 6% in Ontario.

One also has to be circumspect as far as the rental economics of landlords is concerned. They ought to be entitled to rent increases to circumvent any extenuating capital costs, and the bill makes provision for that. However, such capital costs ought not to be a burden on the existing or new tenants, but should be spread over time. There are techniques whereby this can be done.

I wish to make a few comments on the part of the tenants and see what are their rights and obligations. Tenants are expected to pay rent. Nothing is free in this society. Not even our OHIP is free. We pay for it from our taxes. Even our air is not free and cheap. Tenants have to understand that they must pay their rent and that they should put themselves in such a position as to budget their norms, their incomes, to pay for the costs. Prices are not static. Tenants must understand that. All prices are going up. We can hardly think about any commodity or service which has remained static over, say, 5 or 10 years, and therefore tenants have to be prepared to pay. Nothing should be frozen. They must understand they are living in the business world and must put their economics right.

They should also have the right, in most circumstances, to appeal the rent increases. I think this is where the crux of the matter really is. Tenants are not worried about rent increases. They want to pay. They will pay because they know there is an inherent cost factor to living. What is very worrying to tenants is the question of what we call the escalating, rapacious increases.

Therefore I wish to make my final comments on some other factors that the state ought to be concerned about in order to influence supply and demand. If the situation were to be left with the market economy as it stands without the intervention of the state, as I call it in Keynesian economics, we would continue to have the situation where there would be a skewed relationship between supply and demand. Hence price would have its wide range of variations. So the state has to take into consideration its methods and policies to influence the supply of housing stock by incentives to builders, by incentives to renters to acquire a home, and perhaps to reconsider the situation whereby interest on mortgages can be deducted from income tax as an incentive for people to own their own homes.

There are also needs of the society to change certain laws that affect housing directly or indirectly, and I am suggesting questions of zoning, use of basements and so forth.

Finally, I wish to advise you that this is a highly immigrant society and the problems of immigrants are very

many, particularly where this one cost, housing, is in their budget. They are here, they are building Canada, and like all immigrants of the past they are having enormous difficulties with these very high rent increases. Your committee ought to address itself to see what it is, as the minority in the scale of affording housing, because these immigrants who are here over five or 10 years do not commit any capital. They are making life all from the beginning, are working hard, and this particular item is taking a substantial proportion of their net income.

Mr Turnbull: The comment was that an owner should have a reasonable return on investment, and you were a little vague. You said "be it 5% or 10%." If you were to take the component of return that you anticipate through year-over-year operations, and you also alluded to a reasonable return on disposition of the property, what sort of measure would you use? Would you use something a point above a bond? There is risk involved, and clearly in my book you need to make more where there is risk than putting it into a Bank of Canada bond. What would your assessment of that return be?

Mr Sukdeo: I would not take the measure of the bond as my norm to establish the rent.

Mr Turnbull: No, but you are talking about return on investment.

Mr Sukdeo: Return on investment, yes, because the return on investment has to be seen. There are other things; unlike a bond, a house appreciates.

Mr Turnbull: I was saying if you factor that in too, overall, factoring in the risk inherent in any business venture, how much above a bond, if indeed it is above a bond, would you use?

Mr Sukdeo: I would say it should be hovering around a bond, and that depends on what comes out.

Mr Turnbull: Including your profit on disposition?

Mr Sukdeo: No.

Mr Turnbull: So around a bond, plus a profit from disposition?

Mr Sukdeo: Precisely so.

Mr Turnbull: This is a very imprecise discussion, but I just want to get a feeling from you. What sort of return over the normal lifetime—let us choose arbitrarily 10 years' ownership of a building. What sort of return on average would you anticipate, annualized?

Mr Sukdeo: I think again it depends on the kinds of investment we talk about. Ten years obviously is a different kettle of fish, than if you are talking about property that is 20 years old or five years. Not only that, it also depends on what has been the purchase price and the circumstance of the building, because there are certain investors who may have a good deal. Others may not have a good deal, and therefore they will have to set their norms, their investment ratios commensurate with those objective conditions of the investment. Hence I will have difficulty in giving you a precise figure of 5% or 10%, which you are trying to elicit from me.

1710

Mr Mammoliti: Mr Sukdeo, I appreciate your coming down. I notice there is no organization or anything beside your name. Perhaps you could just let us know whether or not you are representing a whole group of people or a community of some sort. That is the first question.

Mr Sukdeo: Indeed I do represent a community organization in the Jane-Finch area, where I do reside. It is called Guyana Canadian Association. You may wish to know that Guyana supplies the seventh largest source of immigrants to Canada, most of whom are residing in Toronto. I am very much aware of their circumstances and their experiences; hence, I give you a feeling of what their feelings are.

Mr Mammoliti: The second question I have is on your particular opinion on our bill, on our legislation. Do you think, in your opinion, it is a move in the right direction? Are your tenants happy with this piece of legislation?

Mr Sukdeo: Certainly the tenants are very happy with it. They think the bill, as it stands, is a good bill. There are certain deficiencies. I think I heard of some from the last speakers, but generally speaking, feelings are important. The principle is it should be hovering around the inflation rate. I think this is what people are saying, that we want to pay our rent increases, but we want to pay it around the inflation rate. That is the point I think is very important.

JOHN LOGAN

The Chair: John Logan: We will be following the same procedures, Mr Logan. If you wish, you can save some time for questions and answers.

Mr Logan: I thought each of you would have received a copy of my original submission. I understand from Ms Deller that this has not happened, but it will happen today. You will receive not only a copy of my original presentation, but a copy of this presentation today.

My argument is fairly simple and straightforward. The purposes for calculating rent increases, the length of time a capital expenditure will last is unrealistically short. Or to say it another way, the capital item lasts much longer than the period used to calculate how much the rent should go up in order to recover the money spent for the capital item. This results in the tenants paying rent increases two, three, four times and more the amount needed to compensate the landlord for capital improvements to his building.

As I said in my submission, is it any wonder owners of rental properties are anxious to make capital expenditures that will result in rent increases to tenants when it is so profitable to do so?

Let me cite a few examples. The drop ceiling is supposed to last 10 years. What can go wrong with a drop ceiling? It just sits there, or rather, hangs there. Nobody walks on it. Nobody touches it. In my building, it lasted over 20 years and was recently replaced. The new one, it is claimed, will have to be replaced again in another 10 years. The owner paid \$62,000 for the drop ceilings to be replaced. If these ceilings last for 20 years, he will receive \$219,000 in rent increases from his tenants.

The corridor drywall, it is claimed, will have to be completely replaced in 10 years. Can you believe it? All the walls in all the corridors in a 20-storey building will have to be torn out and new drywall installed in just 10 years' time. Why? What is going to happen to it? It is not going to collapse like a wet rag. With proper maintenance for the odd gouge by a shopping cart, it will probably last as long as the building. The plaster walls, which are not nearly as durable as drywall, lasted over 20 years and did not need to be replaced when they were recently covered over with the drywall on all 20 floors. The owner paid \$155,000. He will recover about \$550,000 in rent increases.

Then we have corridor lighting fixtures. They are similar to the one in my washroom, about three and a half feet long with a fluorescent tube inside a plastic cover. The fixtures they replaced lasted since the building was new, about 25 years. The new ones will need to be replaced in just 10 years according to the owner. I kid you not. That is what he claimed, according to his submission for rent increases.

We all know these fixtures will be like new in 10 years. There is nothing to go wrong. Just feed them a fluorescent tube every month or so and there will be no complaints. But there is one thing that will not change, the rent increase. Even though the owner recovered his capital cost in the first 10 years, the rent increases will go on in years 11, 12, 13, up to year 20 and beyond, as long as the fixtures last. That is the unfair part of the rent increase.

Before I deal with this excess rent increase and what it amounts to, I have one last example to present to you: corridor broadloom. When it was replaced recently, it had been down since the building was new, 25 years. Do you know how long this broadloom is expected to last? Five years. Of course, you and I and everyone else living in the real world know it will last much longer, but in the meantime, the increase that was allowed to cover the replacement cost will go on and on and on for maybe 20-plus years. If it lasts 20 years, as was the case the last time, do you know how much the tenants will have paid in rent increases on this one item alone? Seven hundred and thirty-seven thousand dollars, nearly three quarters of a million dollars on an item that cost \$136,000.

As a matter of fact, on just these four items, if they last 20 years instead of the period used to calculate the rent increase, the tenants will have paid nearly \$1.75 million to the landlord on items that cost him \$419,000, an excess of \$1,309,000 paid to him at the expense of the tenants.

In my original paper, a copy of which you now have, I set out in detail the first year's list of 24 capital projects, what each one cost and the amount that could be recovered in rent increases. Over a three-year period there were a total of 42 projects completed before the present government brought a halt to the rebuilding rampage in our building. The projects dealt with earlier were just four of these 42. Now these 42 projects, according to the owner, cost a total of \$5,446,000. He stands to recover, through rent increases, in excess of \$15 million, or \$10 million more than it cost him.

We need to bring sanity into the way we calculate rent increases to cover legitimate capital expenditures. In other words, we have to make sure the calculation reflects the

length of time the capital item will really last, and we must make sure the expenditure is needed in the first place. If these two items were done, no one could reasonably object to an owner recovering his costs through rent increases.

If a capital outlay is amortized over 10 years for rent increase purposes and it lasts only 10 years, there could be no argument. The outlay has been properly recovered, no underrecovery, no overrecovery. This is fair to both parties, the owner and the tenant. But an argument will develop and unfairness will result when it can be shown that the same item previously lasted half as long again or twice as long as it is now claimed it will last.

I would like to suggest an alternative better way. Allow the present method of life expectancy to stand, but discontinue the amount of the rent increase at the end of the amortization period. This would be simple and straightforward. We know the amount the rent was increased in the first calculation. If at the end of the life expectancy the item does not require to be replaced, decrease the rent by the same amount as it was increased in the first instance. In this way the owner would recover his capital outlays in the period of years he used in his rent increase calculation, and the tenant would get relief if the item lasted longer than expected.

What could be simpler? What could be fairer? I urge you to give serious consideration to incorporating this suggestion into the new legislation you write.

Thank you, ladies and gentlemen, for the opportunity to address you, and now if you have any questions, I will be glad to try to answer them.

1720

Ms Poole: Mr Logan, I think you have outlined for members very well the situation as it now stands and as it will stand under the current legislation. During the Bill 4 hearings I introduced an amendment on behalf of the Liberal caucus which dealt with costs no longer borne, which is basically what you are talking about here.

Mr Logan: I see. You are a member of the opposition, I gather?

Ms Poole: That is right. Needless to say, my amendment did not go through, but at any rate I feel quite strongly as you do that once the costs are paid for—and the landlord should receive reasonable reimbursement for those costs—the tenant should not go on paying for them in perpetuity.

Mr Logan: Excuse me, why do you say that the suggestion you made was obviously not adopted? Why did you say “obviously”?

Ms Poole: Because if you look at the amendments, all the amendments I put forward on Bill 4, every substantive amendment by ourselves and the Conservative caucus was rejected.

Mr Logan: But this is not the opposition we are talking about. This is just common sense. This has got nothing to do with Liberal—

Ms Poole: That certainly is my feeling.

Mr Brown: That's our view too.

Ms Poole: That is my feeling. That is why I put the amendment forward. The government has said it is willing to be more reasonable and a little more flexible on Bill 121 as far as amendments are concerned, but if you wish you can use 30 seconds of my time to ask the government members—who promised at the time of Bill 4 that they would consider it with the long-term legislation—if they are going to consider it.

Mr Mammoliti: We did not adopt anything? We did not consider any of your amendments?

Ms Poole: Not the substantive amendments.

Mr Duignan: We will consider all amendments before the committee.

Mr Mammoliti: None of your amendments were considered, Dianne? Do not try to mislead the witness.

Mr Logan: Could I ask the members of the government or the members of the legislative committee why this was rejected then?

Ms Harrington: Is it my time now?

Mr Abel: Use up Ms Poole's time; she offered it to you. Go ahead, Margaret.

Ms Harrington: I would like to thank you very much for this very clear explanation of what is going on. It is something we were discussing this morning and I do not think the message got across. I have discussed it at length with various tenant groups across Ontario, or they have explained it to me, the way that increases in rent, the 2% that we were talking about, or the 1% that has been in the bill, are compounding and growing every year. There is this vast amount of money that should be put into repairs.

Ms Poole: That is not what he is talking about.

Ms Harrington: The opposition party keeps saying, or the Conservative Party in particular, “Where is the money going to come from for repairs?” and you have explained it, I think, a lot better than even our staff seem to have done. But we will keep at this. We will explain where the money is coming from for capital repairs, just as you have done.

Now you have said, “Make sure the calculation reflects the length of time the capital item will really last,” and I think you have a very good point. You have also said we must be sure the expenditure is needed.

Mr Logan: No, but excuse me, please.

Ms Harrington: This is exactly what this legislation is intended to do.

Mr Logan: I want to go beyond that. That was in my presentation in the first instance. I want to go beyond that in what I said at the end of the presentation, which was, Scrub a revision of the period over which the capital item is amortized. Scrub that, because nobody on God's green earth can say with certainty that a ceiling is going to last exactly five years, or exactly 10 years, or exactly anything.

It is nonsensical for us to talk that way. It is easy in legislation affecting income tax, for example, for the government to say, “You in business can amortize your capital expenditures over the period we set down in the legislation,” which is different for each item, each type of capital

expenditure, as you know. But the government says at the end of that period: "That is the end of the amortization. It is finished. It is done. There is no more left to amortize." So you cannot keep on claiming beyond the five, 10, 15 or 20 years that the item has been amortized.

Ms Harrington: Okay, I understand your point.

Mr Logan: You cannot keep on charging it, otherwise the government would be losing tax revenue. What I am saying is, use the same principle. Cut it off at the end of the amortization period that was used in the calculation for a rent increase. It is very simple.

Ms Harrington: You are saying the landlords are getting too much? They are saying, "Where is the money coming from to do repairs?" You have explained where that money is.

Mr Logan: Please, I do not want to talk about repairs. I want to talk about just capital expenditures. Repairs come up—

Ms Harrington: Major repairs and—

Mr Logan: Expenses. These are entirely different things. It is just capital expenditures I want to talk about.

Ms Harrington: Major repairs are capital expenditures.

Mr Logan: All right, maybe repairs but not expenses, not maintenance.

Ms Harrington: Okay, I understand.

Mr Mammoliti: I just want to say that we have addressed capital expenditure. Ms Poole said something earlier that gave the indication that we did not consider any of her amendments. I would suggest to Ms Poole that we did take all of her amendments under consideration, sir, and that, actually, when we talked about capping, we certainly took that under consideration.

Mr Logan: But why do you not just—

Mr Mammoliti: But as for capital expenditure, sir, we have addressed it. We have addressed it in a manner that is fair to both the landlords and to the tenants.

Mr Logan: In what way, sir?

Mr Mammoliti: In that the landlords were complaining that with our original proposal, there was nothing there for them.

Mr Logan: What was your original proposal?

Mr Mammoliti: Nothing there for them, so we did address it, and it is fair.

Mr Logan: You mean you were not going to pay for capital expenditures? Is that what you are saying to me?

Mr Mammoliti: What we are saying is we will consider capital expenditure, and we will do it over a number of years.

Mr Logan: But why do you not cut it off at the end of the period that the landlord uses in his submission? I do not want to tie the landlord down to five years or 10 years or whatever, but once he has amortized it over that period, why do you not cut it off? You know how much you increase the rent. Just decrease the rent by the same amount. It is very simple.

Mr Duignan: I think you have made some excellent suggestions here, and we will take a look at it.

The Chair: Time has expired.

Mr Logan: Where can I get a copy of all your names, sir?

The Chair: The clerk will provide you with any details of that nature that you need, Mr Logan.

Mr Logan: Thank you very much.

The Chair: Thank you. It was a very delightful presentation.

1730

CLAUDE LATRÉMOUILLE

The Chair: Claude Latrémouille, I do not need to explain to you how we are operating today.

Mr Latrémouille: I am tempted to begin with a question to the government members—

Ms Poole: And it is on equalization, right?

Mr Latrémouille: Yes, it is. Members of the committee, tonight at midnight, my rent will increase by \$42.50 a month for the next 12 months. If my rent were \$100 less, the increase would only be \$37.10. If my rent were \$150 less, the increase would be \$34.40. The cost increases which my landlord will face during the next 12 months are not related to the level of my base rent, and yet, for the past 16 years, my rent was increased once a year, not by a fixed amount determined by law, but by a percentage of the base rent in existence on July 29, 1975.

Unfortunately, the equalization of rents—a measure designed to eliminate gross inequalities in rents for similar apartments—was twice abolished during these intervening years, first in 1982 by Bill 198, and the second time in 1991 by Bill 4. Now, under Bill 121, there is absolutely no mention of base rent equalization. Only separate charges may be equalized.

If it is fair for my neighbours to pay the same amount for the same parking space, for the same basic cable service, why is it not fair for my neighbours to pay the same amount for the same living space? Yet Bill 121 will entrench this injustice created by Bill 4 earlier this year. As a result of the elimination of equalization, rents for identical apartments in my residential complex have now reached differences of up to \$200 a month.

Equalization of rents is not the landlords' ploy to get more rents. Equalization of rents is not a device to gouge the poor or to benefit the rich. Equalization of rents is a measure to correct large differences between rents for similar or identical apartments. These differences have been caused by the rent review system in force in Ontario since 1975. Had all rents been equal then, they would be unequal now because of the idiotic rent review mess created and improved since 1975.

The Rent Review Advisory Committee, RRAC, recognized this and proposed to the government a modified method for equalizing rents in Ontario: a 5% phase-in to soften the blow on tenants paying the lower rents for the same accommodation, one of the few redeeming features of Bill 51. This 5% phase-in was one of the victims of Bill 4, and Bill 121 does not propose to reinstate this reasonable

measure. Had I been allowed by your committee to present submissions on Bill 4 earlier this year, I would have given you the petitions from my neighbours adversely affected by Bill 4 and a brief historical overview of the problem of unequal rents for equal apartments. I am told that this forms exhibit 218 in your archives. But the majority of the committee refused to hear me and many others on Bill 4.

Today, I leave you with this thought. The easiest way to eliminate illegal rents in Ontario is to reinstate rent equalization in the context of the whole building review. When you abolished equalization through Bill 4, you made sure that all future rent increases would be based on the existing rents, not necessarily on the lawful rent. Where there is an illegal rent, therefore, a higher rent, the increase shall be greater. But with a phased-in equalization, a higher illegal rent is automatically rolled back over time to the same level as the other lawful rents.

If you care about illegal rents, if you consider that the same accommodation should have the same price, if you are convinced that equalization is revenue-neutral to the landlord, if you consider that, with respect to a given residential complex, equalization makes all rents no more or no less affordable, please amend Bill 121 to bring back equalization.

Mr Tilson: You are obviously emphasizing one particular point, and I think that is something we should spend some time on, because that certainly has been a major complaint during Bill 4, and it remains one. Tenants who have contacted my office have expressed that exact view, that it is simply creates an unfair situation.

They go one step further when they talk to me. I would like to hear your comments on that. In other words, it appears from Bill 121, and any other type of rent control legislation, that there is a uniformity of percentage increases across the province. That is assuming that everything is the same; that everything is the same in the city of Toronto and the city of Windsor and the city of Ottawa, that the financial situation of each individual apartment building is the same, that the landlord is the same, that the tenants are the same, that the age of the building is the same, that the cost of living in each individual municipality is the same, that there are no economically depressed rents, which of course gets back to your area. So my concern is exactly the same as yours, only I go one step further because I look at the overall issue of rent controls. At first blush, tenants will think, "Great, my rents are going to be frozen." Of course they are not, because there are automatic increases. But there are too many inequities. I would like to hear some of your comments. I would like you to go beyond what you have been talking about in your paper, in your presentation, as to the attempt to be uniform around the province, and perhaps the impossibility of the uniformity.

Mr Latrémouille: I am not saying the whole system should be uniform. I am saying what the legislature found to be appropriate when it passed Bill 51; that is, that where there were inequities in rent only because of historical reasons, not because of any other factor, then they proposed the method to eliminate those. Now, assuming that in a

given building this has been done, then, yes, in a given city the economic conditions may be different from another one. But we are no longer just speaking of equalization; we are speaking about regional differences from one metropolitan area to another. I do not think the rent review system ever distinguished between a particular location—as a matter of fact, there was a criticism at the beginning that it was a Toronto problem, and therefore why should it apply to Ontario. The first people who wanted rent review in Ontario were saying, "Just put it in place for Toronto because that is where the biggest problem is." Then people from Ottawa said, "Well, yes, we have a problem too." Finally the government said okay. By the way, if they did that, they might be accused in the courts of passing discriminating legislation, and the courts might strike down the legislation because it is unfair to certain cities. That is part of the answer to your query. There are regional differences, but the Legislature never legislated those differences for fear of having the law declared illegal on the basis that it was discriminatory.

Mr Tilson: Is your conclusion that perhaps the government should get out of housing?

Mr Latrémouille: I am not even discussing that. First of all, I am not even considering that it should be in housing to start with.

Mr Tilson: I want you to clarify what you do mean. You obviously are emphasizing that the inequities are not right.

Mr Latrémouille: I am just referring to the inequity created by the system concerning rents for equal or similar or identical apartments. I am not referring to any other inequity that might have arisen through the passage of time since 1975. So I am not discussing the issue that certain units are exempt from rent review, others are not. I did not discuss that at all. If I were to address the issue of whether government should be in the housing business or not, then that is an entirely different discussion.

Mr Tilson: Then dealing with the specific issue you raised, and I am pleased to hear that, because many people come with 1,000 issues, have you any thoughts as to how the government could resolve that?

Mr Latrémouille: I would not be innovating, but it seems that the Bill 51 solution was the closest to being fair. That was a long-term smoothing out of the inequities, not to hit individual tenants unduly, so there was a phase-in, a 5% cap on those increases to make sure nobody would be hit with 40%, 30% increases just by the reason of equalization. That was in Bill 51. There was a new wrinkle added to that: if a tenant applied for equalization, then a landlord had the right to apply to equalize the whole building. That was a new feature of Bill 51, whereas before, if a tenant applied for equalization, then the commission would deal only with that and that would not deal with the entire building. Basically, all I want is a form of equalization to make sure that the \$200 difference in existence today in the building where I live for identical apartments—every month tenants living there at the moment pay rents which are \$200 apart for no other reason than the legislation.

1740

Ms Poole: Thank you for your presentation today, and I hope this time you have more luck than last time trying to get the change. We have had several people today who have presented and not understood what equalization meant. They have made a comment which started out something like, "One good thing about Bill 121 is that increases which the landlord could get, such as for equalization, financial loss, depressed rents," they put it in that big long list as though the landlord was going to make more money out of it. Perhaps you could explain for the committee that there is no net gain at all, zero, to the landlord; that it is a matter of, if one tenant is paying \$600, and another tenant is paying \$400, the rents on the two apartments will be equalized to \$500 in that.

Mr Latrémouille: It is extremely difficult for a tenant who is receiving an order that lists all those items to say, "Okay, but this one is revenue neutral whereas the others are not." He or she just looks at the list and says, "I am getting this for that; I am getting that for that; therefore I am paying more." Yes, it is true that equalization is revenue neutral. It is difficult to see in an order because it is part of the order; it is listed as one of the items which the commission or the board or whatever considers, but if it were separated, then maybe tenants would understand it is revenue neutral. They would know that certain rents would be increased less whereas their own is increased a little more because of that. But that is not a gain to the landlord. So, if there was a separate calculation for that, they would immediately see that the landlord is not getting one penny more because of equalization. But the way the question was framed in this consultation document you referred to this morning, the questionnaire, was, "Should landlords be allowed to apply for equalization of rents?" That sounds like, "Should they get more money because of equalization of rents?" Tenants should be allowed to apply for equalization of rents, and it is a revenue neutral measure even then.

Mr Mammoliti: I would like to agree on one of the things that you said, that the rent review system that has been in place for a number of years is no good and has not been any good; it has just been a headache. I agree with you; it has been. The point about equalization is a good point. The problem we have with that is that a lot of arguing goes on. Not that there is not already. Somebody mentioned earlier that our piece of legislation would cause chaos between landlords and tenants. I would say the chaos has been there for years. There have been war zones in some of our buildings for years, and rent review certainly has not done anything for that particular problem. Again, with equalization, the problem is that there is a lot of fighting, not only fighting between landlords and tenants, but tenants and tenants. What I have found over the years as well is that the odd landlord here or there would stick his or her nose into it, and perhaps try to weed out the tenants he or she does not like, perhaps telling that other tenant that this particular person is paying this amount, and that sort of thing. That kind of fighting goes on a lot.

Mr Latrémouille: But it is all public. All the rents are public.

Mr Mammoliti: Yes, it is. The problem again is that there is a lot of fighting and it is pretty hard to address that through equalization. We believe the previous legislation—what is the matter? Is there something on your head there, Mike? Perhaps a mosquito or something?

Mr Brown: Yes.

Ms Poole: Something on his mind, though.

Mr Mammoliti: I want to stress to you again that rent review certainly did not do anything for us, and that the fighting still continues because of that piece of legislation.

The Chair: Thank you. Time has expired. Thank you, Claude.

REALSTAR MANAGEMENT

The Chair: The last presenter for today is Realstar Management. The committee has allocated 15 minutes for your presentation and you can save some time for questions and answers if you wish.

Mr Putman: My name is Thomas Putman. I am with Realstar Management. Realstar is a privately owned business whose operations are concentrated in the provision of residential accommodation to more than 14,000 families, most of whom are in Ontario. Realstar has built or invested in buildings in Metropolitan Toronto, Mississauga, Windsor, London, St Thomas, Kitchener, Guelph, Niagara Falls, St Catharines, Collingwood, Barrie, Oshawa, Port Hope, Brockville and Ottawa.

Realstar's business philosophy is simple: the long-term ownership of residential rental properties. I am appearing before you today because of my concern that the proposed Rent Control Act will endanger our long-term philosophy. While I have many concerns with the proposed legislation, I would like to concentrate on three specific issues: capital expenditures, the statutory guideline amount, and the changes to the administrative processes.

With respect to capital expenditures, Realstar has always emphasized the long-term care of its properties. Between 1987 and 1990, Realstar spent over \$12 million in capital improvements to maintain and improve the quality of their buildings. In fact, \$5 million of those capital repairs have been affected by the retroactive legislative changes of Bill 4. The majority of this work was concrete restoration of our underground garages.

The provisions for the treatment of capital repairs as provided in Bill 121 are inadequate to meet the needs of our tenants. The families who live in our apartments are typical average working Ontarians. They expect their homes will be kept structurally sound, mechanically efficient and cosmetically attractive.

There are many studies on the magnitude of the capital repair program necessary to maintain the integrity of Ontario's rental accommodation. The problem is large. Some estimates place the total at \$10 billion. As long-term owners, we are not able to avoid the problem. Capital must be spent on our buildings or our tenants will suffer the consequences of deterioration.

The 3% cap on increases proposed under Bill 121 does not provide sufficient cash flows for us to finance the repairs. Under Bill 51, if an owner were to spend \$1 million

on a garage repair, as we have done several times, he would receive a \$150,000 annual rent increase. The increased cash flow would have serviced the bank loan or mortgage obtained to finance the repairs. Under the proposed Rent Control Act, the cash flow would increase only \$62,000 per year, which would only pay half of the financing costs of the \$1-million loan.

Realstar has not been able to find a bank or a trust company who will lend us money if we can only make half the payments. The families who live in our buildings rely upon us to do the capital repairs. Bill 121 is telling the tenants that their rent increases will be low, but that major repairs cannot be done. This is simply unacceptable to our tenants and ourselves.

With respect to the annual guideline increase, Bill 51 provided for operating cost increases of two thirds of inflation plus 2%. All capital expenditures were extra. Bill 121 provides for 50% of inflation plus 2% for capital.

I cannot help but remind the government that during the last election it promised that rent increases would be tied to inflation. The Bill 121 formula delivers far less than inflation; 50% of inflation is 50% of an election promise.

1750

The proposed guideline for operating costs is inadequate to offset the increase in costs. One should be reminded that between 1990 and 1991 the inflation rate actually experienced by Realstar in operating costs was 10.5%, due to the GST and higher municipal taxes.

One of our greatest concerns about Bill 121 is the changes to the administrative procedures. Bill 121 eliminates the internal appeal function carried out by the Rent Review Hearings Board. This is a harsh and totally unnecessary elimination of a basic human right. Realstar has found the appeal process to be very important for both us and our tenants in resolving various rent review issues. In our experience, most appeals concern issues of fact and not law. The appeal process has proved to be an effective and cost-efficient alternative to the courts. The limited right of appeal to Divisional Court as provided for by Bill 121 may be considered adequate for a large landlord who can afford the \$20,000 legal bill, but it effectively eliminates the appeal rights of small landlords and most tenants.

Bill 121 creates the position of inspectors and provides for broad search and seizure powers. Realstar is very concerned about these changes because they alter the role of the government in the landlord and tenant relationship and we question the long-term viability of the government's approach to rental housing.

In past legislation the government's role has been that of an arbitrator. There was no need for inspections, because the burden of proof remained on the applicants. If a landlord failed to provide proper documentation, the minister issued an award in favour of the tenants. Under Bill 121, the government's role has changed to that of a policeman. Despite the lack of evidence of need for this change in role, the government appears to have abandoned any effort at obtaining compromise between landlords and tenants. Instead of attempting to ease relationships, the government seems intent on creating new conflicts between the parties.

A further comment regarding the creation of inspectors is that a casual observer cannot help but draw the conclusion that if the government feels the need for bigger and better policemen, it must have already reached the conclusion that relationships between landlords and tenants are going to deteriorate in the future. The government in essence has admitted that the long-term effects of Bills 4 and 121 are disastrous and they must arm the bureaucracy to deal with these newly created problems.

A more productive alternative is to amend the legislation and make it workable for both landlords and tenants. To use an analogy, landlords and tenants are like an old married couple. Their marriage may be rocky, but they cannot get a divorce; they are dependent on each other. Landlords and tenants need a marriage counsellor, not a policeman.

In summary, Realstar feels Bill 121 is a harsh and bureaucratic response to the problems of affordable housing. The long-term effects of Bill 121 are socially and economically irresponsible and will inevitably lead to greater intervention by the government in the residential rental industry. This intervention will be harsh for both the tenants, who will see their homes deteriorate, and the taxpayers, who are ultimately going to foot the bill. It is most regrettable that compromise and consensus are so politically unfavourable these days.

Ms Harrington: I will very briefly respond. Thank you for your thoughtful presentation.

First of all, your concern with regard to creating conflict: In the last paragraph here you reiterate it again as being politically unfavourable. That is certainly not the intention. I think it has been stated quite clearly by the minister and the ministry in the last while that we want to see the landlords and tenants, as you say, work together and get a relationship that is a real partnership. It has not been, in many cases. The scales have not been in any way equalized in a relationship where they can talk and understand what is happening. I certainly would like to disagree with you on that point.

I would like to carry forward to the ministry two other things that you mentioned and have it report back to us, because they certainly are legitimate concerns—if I can remember them now; it is getting rather late in the day.

The first one of course was how you would pay for, for example, an underground garage. That is very important. We intend that repairs be done, and these are necessary repairs. We believe that it is not just the tenants who have to pay; it is the landlord's investment as well and a portion of that cost is from the landlord, from the past years. I do not know exactly where to tell you that money is, but I am saying that a portion of that is your investment as well as the tenants' investment, as well as the programs the government has to provide for necessary repairs. I would like to hear back from the ministry on the financing of those kinds of repairs.

The other thing was your right of appeal. That is very important. I do not want to see any problems arising with that, and I would like to look into that further.

Mr Turnbull: Mr Putman, following on the remarks of Mrs Harrington, there is a built-in assumption being

made by her that all landlords are making money out of their buildings. Could you give me a rough guesstimate as to what proportion of landlords, with the size of buildings that you have but not necessarily as many in their portfolio, how many are making substantial amounts of money out of their buildings?

Mr Putman: It depends what you mean by substantial. What I would consider substantial is a 10% rate of return on my money, and I would estimate perhaps 75% or 80% have achieved that kind of profit level.

Mr Turnbull: And the others?

Mr Putman: Would be in financial loss situations.

Mr Turnbull: Here is my problem, and once again I direct it to the fact that I recognize that my colleagues in the NDP, generally speaking, are not from a business background. I want to be able to put it in words that are not my words. I want to try to persuade them of the reality of: If you are making a loss, where do you get this money to fix the garage?

You are saying partly from the tenants, partly from the landlord. If he has already put his life savings into buying a building and he is making a loss, and he bought it not with the expectation of continuing to make a loss but with the expectation of acting within the existing framework which was under Bill 151, for example, and he started doing some capital repairs, the knee-jerk answer is, "Well, if he is not making any money, he has made a bad buy." You compare it with any other real estate investment and on a per-unit basis apartments are cheaper than any other investment, so it is not a bad buy in my estimation. Where would you imagine you would get the money? You alluded to trust companies. Expand on what the trust companies have said to you in terms of financing repairs.

Mr Putman: Right now Realstar is not able to find a bank or a trust company that would finance that kind of repair, and they will not do that simply because the landlord is not able to generate the cash funds to repay the loan.

Mr Turnbull: So you, with 14,000 apartments, are not in a position to be able to find a bank that will lend you money for the capital costs.

Mr Putman: For that specific reason.

The Chair: Thank you for your presentation, sir. Time has expired.

That completes the hearings that we have scheduled for today, but I understand there are a couple of items of interest that committee members wish to bring forward for discussion. Mr Duignan, you have an item?

1800

Mr Duignan: I would like to bring up the issue about the condition of this room and see if we can get something done about it. As Chairman of the standing committee on the Legislative Assembly, I have brought up this issue before with legislative services to see what can be done about air-conditioning in the committee rooms. They are supposed to monitor this on a fairly regular basis.

I suggest that you as Chairman of this committee and I as Chairman of the Legislative Assembly committee write

a joint letter to Barbara Speakman and ask her, as a minimum, at least to put two window units in here and see if that will alleviate some of the problems in this room, or anything else that can help us here.

Mr Mammoliti: The problem would be the noise with the window units.

Mr Duignan: It may not be as noisy as that.

Ms Poole: They have a big air-conditioner in some of the rooms and we have had to turn it off because the noise gets too much. What they have been able to do is turn it on, get the room cooled down before we go in, and then at lunchtime do it again. At least it provides some relief.

Mr Mammoliti: I have always been a fair person, my whole life. I believe we should be fair in this particular case as well. I know there are five committees going on. There are only two rooms that are air-conditioned. Perhaps we can take turns. We have been in here for three days. Perhaps somebody else can sweat it out for a day and we can enjoy the privilege of cool air tomorrow.

Mr Turnbull: We will take it up with our shop steward.

Mr Duignan: I suggest that we do bring the issue up with Barbara Speakman and see if it is possible to get something done about the conditions.

The Chair: Yes, we will do that.

Mr Mammoliti: But in the interim, really, I think it is fair if we take turns.

The Chair: If we can get a room that is more accommodating than this one—I have already asked the clerk—

Mr Mammoliti: We have been here for three days. It is kind of stuffy.

Mr Abel: Do you think the others are going to give up that room?

Interjection: You will have to fight them.

Ms Poole: I think the clerk was trying to say something. She may have an answer for us.

Clerk of the Committee: No, I do not.

Mr Tilson: Mr Chair, in your absence I asked a question of one of the speakers with respect to the reduced guidelines. It is being alleged, of course, that the reduced guidelines, which are 50% of the building operating cost index, are insufficient. It is being alleged because in most buildings, especially older buildings, the costs exceed 50% of revenue. I wanted to ask the staff if they would have any statistics available to justify this rationale, which is a major change, from the two thirds to the 50%. They may not have that information available now, but if they could make it available.

The Chair: Can staff gather that up for us when it is possible and report to the committee?

Ms Parrish: Yes, we do have a report that is fairly recent. It was done by Royal LePage. It was done for some other reasons, but it does have a chart that shows operating costs over time. We have it right here. If I could give it to the clerk, she can distribute it and we could work with you all the time, so you can ask questions after you have seen the chart. It is right at the beginning.

The Chair: Very good. Any further business?

Mr Drainville: Just a personal note. I know I said it to the Chairman, but the rest of the members of the committee should know that I have been subbing on two committees because cabinet ministers were moved up and there is a bit of a problem, but tomorrow is my last day on the committee. No cheers, please. I will be moving permanently to the select committee on Ontario in Confederation. I just thought the members should know that.

Mr Abel: This concern was brought up a little earlier. It was about the lack of time allowed for questions. I think we all agree that there should be some time set aside to ask questions. We were just wondering if it was possible that the Chair could direct the presenters or instruct the presenters to the fact that they would be allowed 10 minutes to speak and that would leave at least a minute and 40 seconds per party to ask questions. I wonder if we could get unanimous agreement to instruct the Chair to do so.

Clerk of the Committee: You can do that if you like. I just would like to point out to the committee that the instructions I was given to give to the witnesses were that they would be given a 15-minute time allotment and they should reserve some of that time for questions from the committee, which is what I have done. Every witness scheduled has been told that, to reserve some time. Some of them may come with the idea that they are going to speak for 12 minutes and leave three minutes for questions or take up the entire 15 minutes. I just want you to be aware of what the witnesses have been told up to now.

Mr Abel: So they have been told that they should allow time for questions?

Clerk of the Committee: All of them.

The Chair: If they wish. Not every witness cares to get into that process. They come here to make their presentation and it is all they wish to do. That is why I try to remind every presenter. Mr Brown?

Mr Brown: I was just going to say the same thing. It is very difficult being in this chair and having to restrict people, yet the difficulty is that a lot of these people will presume they had 15 minutes and maybe were going to leave a minute or two. Some people take longer to read their 10-minute brief than they think it is going to. A lot of people would feel uncomfortable if they came here with the idea they were going to speak for 15 minutes and end up being told, "You've got to condense that to 10."

Those may have been fair instructions if we had given them before, but I am uncomfortable with it too. I think there are some points that need to be clarified as we go along, but I do not know what the tradeoff is. I am not sure that at this point we could have the Chair instruct them and it would be fair to the presenter. I think the Chair could make the suggestion they leave five minutes for questions. It would be just a suggestion.

Mr Tilson: I must say I congratulate the clerk for cramming in as many individuals as she has in the list. I do not know how many were left off, but in the number of days that are allotted, I think we are doing very well. Certainly a system similar to what Mr Abel has suggested, with some flexibility, I think—in your absence, I was the one who started this issue, for the various reasons I think

members may want some dialogue to clarify an issue or to simply ask a question. They may not understand what the witness has said. I will not repeat what I said, but certainly I would agree with Mr Abel that, subject to being flexible on it, I suppose, perhaps the Chair should be directed by the committee to put forward a similar position to what Mr Abel has indicated.

Mr Abel: I think we are working towards a solution to this problem. Considering the circumstances—I feel we should, yes, certainly be flexible—could the Chair not make suggestions to the presenters that they should leave some time and maybe put a limit to it? If we say, "Okay, you can have up to a maximum of 12 minutes," that would at least leave one minute per party to get at least one question in, but we would leave it open and say, "If you can leave five, that would be fine," 11 minutes would leave a minute and 20 seconds and so on. I worked out a little chart here, so much for each presentation and so much for each party. Would that not be workable, leaving them the option and saying, "You must complete your presentation after 12 minutes, leaving at least one minute per party?"

The Chair: I can tell you from some of the hand signals that I have been trying to give some of the presenters, they had no intentions of stopping until their brief was finished, and if it took 15 minutes, that is what it took. A couple of times I found myself actually feeling embarrassed. Here I am trying to wave to them and nod, and a couple of people I have had to interrupt in midsentence. I think I should continue the process where, when the witness sits down, I tell them they have the 15 minutes as granted by the committee and if they wish they should refrain from using all the time so that questions and answers can take place. If I do more than that, I think I am interfering with the witness.

Mr Tilson: I would agree. It is a delicate issue, and there may be the odd witness who does not even want to hear from us, and that is fine. Put yourself in the position of the witness. Maybe I am wrong, but the bulk of them would want some indication from the Chair when time is up.

The Chair: I have been doing it all day.

Mr Tilson: I am even suggesting to actually say something, that 12 minutes or whatever time—

Mr Drainville: Mr Chairman, I just want to affirm that you have been and I have seen you several times making motions to people, and they were not listening to you at all.

The Chair: No, they have no intention of stopping.

Mr Duignan: On Mr Tilson's point, I agree. We have to work out a compromise here, maybe a suggestion of saying they have up to 15 minutes to make the presentation; however, we would suggest that, "If you could limit your presentation to 10 minutes, that would leave five minutes for members to ask you questions, if you so wish," something along those lines. They may choose to not exercise that option.

The Chair: We will try again tomorrow.

Mr Abel: Maybe it will work itself out.

The Chair: The committee is adjourned until tomorrow morning at 10 am.

The committee adjourned at 1811.

CONTENTS

Wednesday 31 July 1991

Rent Control Act, 1991, Bill 121 / Loi de 1991 sur le contrôle des loyers, projet de loi 121	G-1087
Ministry of Housing	G-1092
Don't Empty Mimico Apartments	G-1105
Ontario Home Builders' Association	G-1107
CST Corp	G-1109
Metro Tenants Legal Services	G-1111
Mantler Management Ltd	G-1113
Roy Birnboim	G-1115
Goldlist Property Management	G-1117
Scarborough Tenants Alliance	G-1119
O'Shanter Development Co Ltd	G-1122
Eighth Street Tenants Association	G-1124
Fred Sukdeo	G-1127
John Logan	G-1129
Claude Latrémouille	G-1131
Realstar Management	G-1133
Adjournment	G-1136

STANDING COMMITTEE ON GENERAL GOVERNMENT

Chair: Mancini, Remo (Essex South L)
Vice-Chair: Brown, Michael A. (Algoma-Manitoulin L)
 Abel, Donald (Wentworth North NDP)
 Bisson, Gilles (Cochrane South NDP)
 Drainville, Dennis (Victoria-Haliburton NDP)
 Duignan, Noel (Halton North NDP)
 Harrington, Margaret H. (Niagara Falls NDP)
 Mammoliti, George (Yorkview NDP)
 Murdoch, Bill (Grey PC)
 O'Neill, Yvonne (Ottawa-Rideau L)
 Scott, Ian G. (St George-St. David L)
 Turnbull, David (York Mills PC)

Substitutions:

Mahoney, Steven W. (Mississauga West L) for Mrs Y. O'Neill
 Poole, Dianne (Eglinton L) for Mr Scott
 Tilson, David (Dufferin-Peel PC) for Mr B. Murdoch

Clerk: Deller, Deborah

Staff: Richmond, Jerry, Research Officer, Legislative Research Service



G-28 1991

G-28 1991

ISSN 1180-5218

Legislative Assembly of Ontario

First Session, 35th Parliament

Assemblée législative de l'Ontario

Première session, 35^e législature

Official Report of Debates (Hansard)

Thursday 1 August 1991

Journal des débats (Hansard)

Le jeudi 1 août 1991

Standing committee on general government

Rent Control Act, 1991

Comité permanent des affaires gouvernementales

Loi de 1991 sur le contrôle
des loyersChair: Remo Mancini
Clerk: Deborah DellerPrésident : Remo Mancini
Greffier : Deborah Deller

Table of Contents

Table of Contents for proceedings reported in this issue appears at the back, together with a list of committee members and other members taking part.

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at (416) 325-7400.

Languages in Hansard

Hansard reports all debates in English or French as spoken by the participants. It does not translate remarks made in either language. Headings and tables of contents reflect language use.

Subscriptions

Subscription information may be obtained from: Sessional Subscription Service, Publications Ontario, Ministry of Government Services, 5th Floor, 880 Bay Street, Toronto, Ontario, M7A 1N8. Phone (416) 326-5310, 326-5311 or toll-free 1 (800) 668-9938.

Table des matières

La table des matières des séances rapportées dans ce numéro se trouve à l'arrière de ce fascicule, ainsi qu'une liste des membres du comité et des autres députés ayant participé.

Il existe un index cumulatif des numéros précédents. Les renseignements qu'il contient sont à votre disposition par téléphone auprès des employés de l'index du Journal des débats au (416) 325-7400.

Langues paraissant dans le Journal des débats

Le Journal des débats rapporte en anglais ou en français les débats, selon la langue utilisée par les participants. Les remarques faites en l'une ou l'autre langue ne sont pas traduites. La langue des en-têtes et de la table des matières reflète la langue utilisée.

Abonnements

Pour les abonnements, veuillez prendre contact avec le Service d'abonnement parlementaire, Publications Ontario, ministère des Services gouvernementaux, 5^e étage, 880, rue Bay, Toronto (Ontario) M7A 1N8. Par téléphone : (416) 326-5310, 326-5311 ou, sans frais : 1 (800) 668-9938.

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON GENERAL GOVERNMENT

Thursday 1 August 1991

The committee met at 1000 in room 228.

RENT CONTROL ACT, 1991

LOI DE 1991 SUR LE CONTRÔLE DES LOYERS

Resuming consideration of Bill 121, An Act to revise the Law related to Residential Rent Regulation.

Reprise du projet de loi 121, Loi révisant les lois relatives à la réglementation des loyers d'habitation.

The Chair: The standing committee on general government is called to order.

CONCRETE RESTORATION ASSOCIATION OF ONTARIO

The Chair: The first presenters this morning are the Concrete Restoration Association of Ontario. I would like to call the delegation forward. The committee has allocated 15 minutes for your presentation and you may wish to save part of that time for questions and answers. If you so wish, I can let you know when you have three or four minutes left or you can use the entire time as you like.

Mr Eckardt: Thank you for this opportunity to address the proposed rent control law in Ontario. Our interest in this matter arises from the fact that members of our association, including contractors, suppliers and engineers, repair most of the apartment parking garages in the province. Since we were before this committee earlier this year to offer comments on Bill 4, the temporary rent control legislation, we will keep our remarks as brief as possible.

The members of this committee will recall that the reason underground garages are deteriorating is that the reinforcing steel in garage concrete is rusting as a result of the accumulation of road salt in the concrete. The salt is there, as you know, because it is carried into garages by automobiles and at the molecular level penetrates the concrete to commence corrosion of the steel. As we outlined to you before, a ready example of this is the Gardiner Expressway. That deterioration is precisely what is happening to Ontario's apartment garages.

Let me emphasize that since the fall of 1990 through to today, very little concrete restoration has occurred because of the government's temporary rent control law. Yet the need for these repairs grows. To quote one Canada Mortgage and Housing Corp report on this issue, "The Ontario Ministry of Transportation and Communications' practice is to add 10% to 25% to the amount of delaminations"—or deterioration—"determined in a survey if repairs are delayed one year."

To quote the same report again, "Once started, the growth of delaminations may accelerate and indeed be exponential until all areas containing top steel have delaminated."

In other words, time is not on our side, but unfortunately we have lost this year.

Early in July we surveyed our members and others who supply the apartment sector to determine what, if any, work is going on. Because of the shortness of time we have received only 22 responses, but even those few show Bill 4 caused 143 men and women to lose their jobs through the cancellation of \$35 million worth of projects.

The responses vary tremendously. Some companies lost over \$1 million worth of projects and only had to lay off one person. Most of the others were not so fortunate.

The responses show contractors are not too familiar with lawmaking but they know how the real world works.

Here are some quotes about Bill 121 from working people.

"Restoration is a costly item. No financial institution will lend money with no means of repayment. Therefore no work will be done."

Here is another: "The legislation encourages cosmetic repairs to hide problems, rather than undertaking major expenditures to solve concrete deterioration."

Here is another in response to the issue of tenant safety: "Not immediately in danger but that will change within one year."

Here are some suggestions for improvement: "Have both sides sit down and make an agreement that will not kill the tenant but see the owner compensated reasonably for his expenses."

Finally: "Structural repairs should have a separate category with no penalties and a longer term to allow landlords to commit the large sums of money required."

All this sounds like common sense to me.

Based on this information and my experience and that of my associates, I can say with accuracy that very little work other than minor maintenance is taking place in the apartment sector right now. What is more important, very little will take place under Bill 121 as it stands. This is not something that the government wants, nor landlords, nor tenants, nor us, nor our workers. We have got to find a way of turning this situation around.

Specifically with Bill 121, there are a number of problems and they are linked.

First, the percentage of rent increases allowed and the way in which they are allowed for capital improvements are not great enough to get the work done. The costs are high but the 3% capital allowance does not go far enough to let someone do this work, let alone borrow the money to do the work.

Second, the period for recapture of costs for structural repairs, even spread over two years, is not long enough. This repair process is ongoing, time-consuming, and will be with us for decades to come. There is no escaping that hard reality. These are multi-year programs, and a two-year payback period with the caps, as recommended, are not sufficient.

Third, the way the bill is designed with a 2% deduction out of the annual 5% guideline dedicated towards capital needs to be changed. With this dilution factor, the numbers do not work, so the work will not get done.

A fourth problem arises in the form of the definitions related to the penalties that a property owner faces if he or she applies and if there has been neglect or inadequate maintenance. Those are undefined terms which could deter people from undertaking work and applying for an increase. It seems to us that this needs to be clarified as well.

Fifth, anyone who wants to use the carry-forward cannot make another application for the same period. So in a year that a carry-forward is taken, no work can be done.

Sixth, you have maintenance enforcement penalties to penalize landlords who do not comply with work orders within 30 days. This, as you know, is practically impossible with regard to underground garage projects that take months to organize and years to implement.

Seventh, there is the issue of transition. I think Minister Cooke was quite clear in saying that he wanted a regime that would treat those caught in the Bill 4 freeze fairly. This bill does not do that, and in fact puts some owners in the position of never being able to recapture what they spent on major repairs. This, too, should be corrected. Let's treat those who obeyed the then existing law fairly and let them recapture spent funds over time and with caps, as necessary.

Finally are the definitions in the legislation as to timing, which leave the balance of this year up in the air and the future looking rather bleak when combined with the transitional provisions and the thinness of the funds provided for capital expenditures.

So there are many problems with Bill 121 but they can be corrected. All of us share the same goals of getting needed work done. I do not think I am going to get an argument from any party or any tenant advocate or any property owner on that matter.

In closing, over and above the changes I have discussed we recommend that structural repairs themselves, which are so essential for public safety, be put into a separate category in the legislation and that an additional 1% in rent increases be allowed to cover the high costs and provide an incentive for doing these repairs. That would make for a 4% cap above the guideline for necessary structural repairs.

As well, we recommend that the period for recapture of costs for structural repairs be extended from two to four years.

To conclude, I believe this government is sincere when it talks about wanting to co-operate with the private sector and make changes in the interests of Ontario's society. Bill 121 is a case in point. With some changes you can make this thing work. But it is going to require goodwill on all parts and not just good intentions.

I urge the government and this committee to make this an example of how you can make things work, how you can listen and act in the public interest and govern for all Ontarians.

1010

The Chair: Thank you. Mr Tilson, two minutes.

Mr Tilson: I must say to you that of all the presentations we heard during Bill 4 presentations, yours stood out along with several others because it covered a vast number of areas. It covered the issue of safety, it covered the issue of quality and it covered the issue of loss of employment. Once again, you have shown the seriousness of it, and I would hope that of all the briefs we receive the government will review this one with some of the most care.

Dealing first of all with the issue of the industry and, I suppose, employment, listening to what you said, if there are no changes in this bill with respect to enabling capital expenditures such as in the concrete restoration area, what do you estimate will happen in the next few years with respect to the industry and with respect to employment?

Mr Eckardt: So far in the last eight months we have been unemployed we have seen up to 50% to 60% unemployment. Right now what is happening is that the firms that were willing to invest in their own companies and technology, etc are using those funds now to survive, to try to hang in long enough to see what is happening, to see if we are going to be allowed to make a living in this province. If it goes on much longer, I can see at least 50% of the firms not being around next year. Translating that into unemployment figures, it could be anywhere from 1,500 to 3,000 people directly or indirectly related to this industry.

Mr Tilson: I have debated this very subject with the former minister in the House, and his response has been, "Well, there's a recession going on."

Do you have any facts that can relate the unemployment that you are speaking of to this specific issue, these specific pieces of bills? In other words, can you refute what the minister has said?

Mr Mackay: Let me give you a personal example. I am an employer. Last year I had 70 people. When this Bill 4 came out, we were asked, "How many jobs are you going to lose; how is this going to affect you?" Some of the people around here asked me that. It was hard to say back then because you go into a traditional slowdown in construction in the wintertime. Here we are in July now, the height of our season, and I have only got 40 people. I have lost 30 guys. That is the first thing.

Second, I am a union company. I have a collective agreement with Local 183, Laborers' International. Those are union guys. I can sit here now and say to everybody, I have 30 fewer Local 183 labourers working for us right now. Nothing to do with the recession. We do not do new construction, which, as you know, has been affected by overbuilding, etc. That is a direct point that hits home.

The other thing that I wanted to say was, when we sat here and we were all exposed to this thing for the first time, talking to all of you people, nobody knew what concrete restoration was. We kept referring to the Gardiner. It was February; the Gardiner was not under reconstruction. It is now. You can see the amount of concrete that is coming out of there. You can see the amount of reinforcement steel that has been taken out of there.

The Chair: Could we just ask you gentlemen to identify yourselves for the Hansard reporter.

Mr Mackay: My name is Bill Mackay, Concrete Restoration Association.

Mr Eckardt: Ian Eckardt, Concrete Restoration Association.

Mr Hakomaki: My name is Harry Hakomaki, Concrete Restoration Association.

Mr Brown: I am interested—in order to give Ms Poole a chance, I am going to be brief—in precisely how you arrived at the 1% additional for capital expenditure and the extra two years. Have you gone through this and had a look at whether that would actually provide the amount of funds necessary to make the buildings in Ontario safe for our tenants?

Mr Eckardt: Yes, we have done some sample jobs and things of this sort, and really with minor alterations and some incentives this bill can be a workable situation. What we are looking for in this is something that is fair for everyone, and I think that is the key: that somebody gets an apartment that is in good shape and somebody has his expenses reimbursed for doing that, because this type of work is not the landlord's problem. It is caused by something else and it is brand new and there is no way you could have planned for it.

To answer your question, yes, we went through the samples, and especially for smaller apartment buildings within the large categories, they too can have monstrous \$1-million jobs with no way of paying for them under the present legislation. So a rollover, etc.

Ms Poole: Thank you very much for your presentation today. I always find your comments extremely helpful because they are geared to preserving our housing stock, which a lot of people have not paid as much attention to as they should have.

I wanted to talk to you about a problem which you mentioned in your brief: the potential time void from June 6, 1991 to whenever the legislation comes into force. Mr Eckardt, you had phoned me about a month ago raising this very valid concern that the legislation is silent as to what happens about capital repairs from June 6, 1991 onward; that it seems to cover the transition period but is silent on what happens after the bill comes into force.

When I contacted the ministry about this, they said they were contacting their legal people. Their policy people and the minister all told me this was not their intention. I gave them your name and your company's name and advised them of your concern. Has the ministry contacted you to confirm what they said to me, which is that capital repairs can go through during that period, and the period will be covered?

Mr Eckardt: No, we have had no communication with the government in that regard.

Ms Poole: So it is your feeling that if this confirmation is not given, the work simply will not be done because landlords will not be willing to take the risk and spend the money?

Mr Eckardt: I do not think you even play the game without knowing the rules.

Ms Poole: We will try to get that confirmation for you.

Mr Duignan: In your brief, point 6, you say it is practically impossible to have that 30-day limit with regard to underground garage projects. What would you recommend as a fair time period? I know the difficulties of getting in and trying to correct a problem in an underground garage.

Mr Eckardt: My personal feeling is that goodwill plays a big part in this situation. If the landlord shows his intent and starts the job, I do not see why he should be penalized for that. I do not think you can complete a garage restoration job within the time limit. It is impossible. Every job is different. Some could take three years. While it is ongoing, I do not think anybody should be in a penalty position.

The Chair: Very good, thank you. Time has expired. I want to thank the Concrete Restoration Association for appearing before the committee this morning.

1020

860 PHARMACY AVENUE TENANTS' ASSOCIATION

The Chair: The committee has allocated your organization 15 minutes. You may withhold some of that time for questions and answers. For the record, we need you to introduce yourselves for the Hansard recorders. Your 15 minutes has started.

Miss Adams: We are the tenants of 860 Pharmacy Avenue; my name is Thea Adams and I am the chairperson. To my left are Karen Lightstone, Eleanor Talbot and Celeste Mestern; we are all tenants at 860 Pharmacy.

We are here today to address our concerns regarding Bill 121 and how they relate to our past problems. We did not have an opportunity to address you personally at the Bill 4 hearings as did our landlord's son. Even though we are as emotionally involved, if not more so, than our landlord's son, and as some of us have lived at this address for 10 and even 20 years, we will try not to cry about it as he did.

At the Bill 4 hearings our landlord's son made an appeal to you to honour conditional orders, an appeal that you listened to and which resulted in a 15% rent increase for us. It was ironic that on the same day the order arrived, a letter from the Minister of Housing also arrived stating that tenants would no longer have to fear rent increases of 15% and 20%. I guess he did not mean us.

The conditional order process was a sham from start to finish and, although an interesting story, it is too long to relate here.

We feel the process was a ruse to get bank financing for luxury renovations and capital expenditures that would ultimately increase our rents; or, to quote our landlord's son from the Bill 4 hearings, "My father found out you could get rent increases if you did capital improvements to your property and he went the way of a conditional order just to see how much he could get."

But throughout the process, no one bothered to investigate why the current rents could not finance the capital

improvements. If they had, they would have been as surprised as we were.

No one bothered to say, "Use the 18.8% you got in 1982 for capital improvements, as they had been paid for and the money was sitting in our rents." No one said, "Use the 5% that has been built into current rents for capital expenditures." No, they said: "Go ahead and do what you want. The tenants will pay again." Items in our case were submitted with no thought given to the effect they would have on the tenants or on the units. In fact, one of the items submitted was very similar to the one that had been submitted by our landlord in 1982 and again in 1983, and still had not been undertaken in 1989.

Section 29 of Bill 121, although titled "advance determination," seems very much like a conditional order. Subsection 29(1) states, "Before making a capital expenditure or providing a new or additional service...the landlord may apply...for an advance determination." Why? If it has to be done, it has to be done. If the landlord does not like the answer or the price assigned, does that mean it will not get done?

Subsection 29(2) refers to the matter of it being an eligible capital expenditure. By whose criteria? Your employees', the landlords' or the tenants'? Clause 29(2)(b) states it is okay if the tenant gives consent. Give us a break on this one. If you as a tenant want an apartment or a leaky tap fixed or maybe even that hole in your wall fixed, of course you are going to agree with what the landlord wants so that you can get the needed repair done.

As an example, I needed a new countertop in my kitchen but I did not want the new cupboards, as they were smaller and made of inferior materials. So because I did not consent to it, I did not get the new cupboards but I also did not get the new countertop that I really did need and still do need.

Clause 29(2)(c) talks about how much will be allowed in respect of the expenditure and that the higher costs will be taken into consideration. In our case, the increases for some items were 62%, 64% and in one case 315% higher. But we understand rent increases will be limited to 3% above guideline, so why put tenants through this procedure? If something needs to be done, it needs to be done and cost should not be the determining factor.

Clause 16(1)(a) states that if a capital expenditure was substantially completed on or after the first day of January 1990 and before the sixth day of June 1991, the landlord may apply for the 3% above guideline. Will our landlord be allowed to apply for this, as the work was completed in that time frame? We hope not, as a special exception was made for him and other conditional order landlords under Bill 4 that allowed them rent increases up to 15%. We feel a special exception should be made once again, only this time the exception should be made that they not be allowed to apply under Bill 121 to grandfather any remaining amounts of money outstanding from their conditional orders.

If you do allow this, you are talking about rent increases of 15% in 1991, approximately 8% in 1992 and a probable 8% in 1993, for a total of 31%, and even if you do not factor in the compounding, it is a far cry from your

election promises, or even that of Bill 4. Is this part of your Agenda for People?

Subsection 16(2) covers my favourite topic, of neglect in maintaining rental units and complexes. Who is going to judge this, and by what standards? In the past when tenants tried to prove this, your employees threw it back at us, "This doesn't count; you don't have work orders," but we, the tenants who live in these buildings, do know when maintenance goes down. We do not need a work order to tell us that. Why is it, when it is our word against the landlords', ours is wrong and theirs is right, even when documentation is supplied?

Subsection 17(1) once again talks about capital expenditures by consent of the tenant. This is not realistic, the way you have phrased it. It is not strong enough. Landlords have ways of getting tenants to consent, like, "Would you like that extra parking space you've been asking for for years?"

Clause 15(3)(a) mentions once again about whether a capital expenditure is eligible or not and again we hear the words "neglect" or "does not require replacement." By whose determination? Your employees', the landlords' or the tenants'? Maybe if this had been in place, we would still have the milk boxes we wanted but the landlord did not. Somehow or other I doubt it.

Subsection 21(2) puts a cap on the maximum rent of 3% over guideline; and although this is better than 45%, will it be a rubber-stamp process? Will proper documentation be required? What can we say about the carry-forward? Not much.

What happened to your election promise of one rent increase based on inflation? Also, it was very disappointing not to see a true "costs no longer borne" section. It was brought up as a concern of tenants at the meetings you held. Time after time and for ever and for ever, tenants pay for capital expenditures. Take, for example, something as simple as a smoke detector for 28 units at a cost of \$537.50, with an annualized allowance of \$93.20 for a useful life of 10 years. When the 10 years are up, does that amount come out or is it used for something else? No.

Just think about larger items such as a new roof, a new boiler. The cost of these are in the rents for ever: When a new roof is needed, let's go to rent review again and apply for some more money. Even with a cap of 3%, if this continues year after year it will not take long for rents to skyrocket.

Another disappointment was that the capital reserve fund was not given consideration. This would have taken the financial onus off the tenants and put it back on the landlord where it belongs for repairs and ongoing maintenance to keep their buildings up. There are moneys built into our rents right now for capital expenditures, approximately 5%, that landlords use for who knows what, but we can speculate.

Overall the bill has made some small improvements, but it is a far cry from your election promises and does not address another concern we have had throughout the years. It is that some of the staff who work for rent review have what could be interpreted as a landlord bias. If the same

staff are going to administer this new bill, it will be no better than the old bill.

In closing, we would like to address a comment we have heard just recently made by landlords, that Bill 4 and this bill are putting people out of work. We say that if landlords had been doing their repairs and practising ongoing maintenance and not just trying to raise rent by the way of the previous legislation, the employment market would not have been artificially inflated but taken its natural course. We know that our building needed new windows for approximately eight years before they were installed. Just look around at the buildings in Metro. Do you tell me they all needed windows in the same year?

These hearings, although just starting, have a sound similar to those of Bill 51. The landlords said, "Give us this legislation or we won't build any more units." Where are all those units today? Now the cry is, "We won't repair because we can't pass on the cost to the tenants." Why must the rental stock in Ontario be maintained on the backs of tenants? All we want is a place to live where we do not have to use the largest portion of our salaries to pay rent, that is clean and well maintained on an ongoing basis. Is this too much to ask? Even though it is not April 1 but August 1, please do not make it seem like an April fool's joke on us.

1030

Ms Harrington: I thank all four of you for coming. I think we realize the type of situation that you have been facing out there for several years, which is really a very good example of what was wrong with the previous legislation. I would like to assure you that the whole point of this government bringing forward this legislation is real protection for you. It is very difficult to make it fit every particular situation and every building across the province. I want to touch very briefly on some of your concerns, although I recognize I cannot answer in one minute all of your questions. Maybe you could come to me again, to my office and talk to me about it. First of all, we recognize that you have to have more protection with regard to maintenance, and we are trying very sincerely to make maintenance enforceable. As you said, you are not believed or whatever. You also illustrated that there is a compounding effect in the rent and in the increases every year and that this is what has to be used to pay for it, say the concrete restoration or these other things that are building needs.

Landlords must plan ahead for things and not just take advantage of the system and give tenants what they need, which is exactly what you said: a decent place to live. You are not asking for anything more. And you are perfectly willing to work with the landlords, to be reasonable and talk together. Your question about costs no longer borne is something the government is open to discussion on. Thank you.

Mr Tilson: I must say that when I listen to you I agree there are problems with the existing legislation and there are problems with this future legislation. There is an area I would like to hear your comments in, because you have obviously observed the previous system and you are looking as to how you are going to be able to work with the

existing system from the tenant's perspective. One of the concerns I have had is the adversarial system that is created by governments, all three governments: Tory, Liberal and NDP. They have all had to accept some of the blame in creating this system.

The difficulty as I see it is that the tenant is on one side, the landlord is on the other side. You are critical of course of the government as to whose side they are on, and games are played by both landlords and tenants. There are games that are played and it is going to get worse with this legislation. It is going to get unbelievably worse for both sides. Do you think this is the answer, this adversarial system with a government sort of in the middle, adjudicating between the two sides?

Miss Adams: I think we do need government interference. We live in a 30-unit building which is rather small. We now live in an area that is very prime real estate, and without this legislation I can see that our rents would probably have gone up hundreds of per cent. I did talk about equity in current rents. For some reason, landlords seem to feel it is their money and they have no obligation to put some of this money back into their property. We have documentation that our building has been paid for and has been remortgaged to support other items that did not occur in the building, because nothing happened in the building between 1982 and when all this stuff started when he was going for a 45% rent increase.

So, yes, I think it is necessary, even if it has created an adversarial role. But I think that is more on the part of the landlords, because they feel that money is theirs and they can do what they please with it.

Ms Poole: I would like to thank the witness for her presentation today. You have put your point across very clearly. Mr Chair, instead of asking a question, I would like to follow up on several points these witnesses made with the ministry. I would like the ministry to provide us with two items of information. First is a definition of neglect and inadequate maintenance, because I share these witnesses' concerns about putting all this power in the hands of bureaucrats without giving them guidelines. We have to know before we pass this legislation what the rules are, particularly with such a limited right of appeal. So before the end of these hearings I would like a definition of neglect and inadequate maintenance that the ministry intends to bring in as regulations.

The second item follows from what our witnesses have talked about in costs no longer borne. Our caucus had an amendment during the Bill 4 hearings about costs no longer borne, and at that time the government told us that this was something it would consider for the long-term legislation. So the second piece of information I would like is an explanation from the ministry of why a costs-no-longer-borne provision is not in Bill 121.

The Chair: Thank you. Time has expired for your presentation. Thank you for appearing before the committee this morning.

Miss Adams: Thank you very much for the opportunity.

ROBINWOOD MANAGEMENT CORP LTD

The Chair: The next delegation is Robinwood Management Corp Ltd, Rob Herman. You have 15 minutes and you can withhold any of that time for questions and answers.

Mr Herman: Good morning, ladies and gentlemen. My name is Rob Herman and I would like to take this opportunity to thank you for letting me speak to you today. My point in coming here is to try to illustrate to you why your goal of lowering rent increases while at the same time improving the standard of maintenance cannot be realized in the adverse climate that has been created. Let me give you an example. I manage a 70-year-old apartment building in the downtown area. It has always been well maintained and there have been no work orders on the building in the 10 years I managed it. However, time had taken its toll and the major building systems have reached the end of their useful life.

Before undertaking the required renovations, I received written agreement from all the tenants in the building to the proposed work plan and the rent increase. I got approval from the city of Toronto and the Ministry of Housing, and between 1989 and 1990 I spent \$500,000 on the building and extended its useful life by 25 years. Then retroactively I was caught in the moratorium. The tenants had agreed to a \$180-a-month increase, but now under Bill 121 I may get back between \$9 and \$18 a month, and even the tenants do not feel that is right.

For example, Raymond St Onge said in the *Toronto Star*: "Last year my landlord did extensive repair work to our building. Now the NDP have told my landlord he can't be repaid for doing the repairs. That's so unfair. How can they do that? The work is already done. How will he pay for it, and what about the future of my building?" As well, Jeffery Stone was quoted on the CBC as saying, "They worked awfully hard, and I think he deserves more."

The message you are giving me is: "We don't care about the merits and justice of your case. You will be tried with all the others." That is totalitarianism, not democracy. If you were sincerely trying to be fair to both sides, the legislation would allow the rent review officer to deal fairly with the capital work that was caught in the moratorium. This would allow people who have invested in their buildings under the laws existing at the time to recoup their money and not be retroactively wiped out. But your intent is not to be fair or reasonable. It is simply to come along with a scythe and cut us down at the knees and then expect us to co-operate in maintaining our buildings. Do not count on it.

Last year I had 20 well-paid tradespeople working for me. This year I have one, and this is the way it will remain unless you introduce some meaningful amendments to Bill 121. I understand you want to keep rent increases down. There is not one responsible landlord who would object to that. But the legislation must be fair and it must allow us to finance necessary work. The way it is written, it does not. Perhaps if Minister Cooke had entered into meaningful consultation with the landlord community prior to the introduction of Bill 121 instead of two half-hour meetings in

nine months since you have been in power, then the legislation might have been something we could live with.

Since reading Bill 121 I know how a rape victim must feel, because I say to myself, "What did I do so wrong that I deserve this?" In a lot of ways I was a model landlord. I had no work orders against my buildings, received tenant approval before starting major projects and I always lived within the letter of the law. Some of the buildings I manage have been in my family for over 50 years and we have never sold an apartment building. If my tenants are having a problem in any of the buildings I manage, they are always free to pick up the phone and call me personally. Perhaps that is why in August 1989 one of my tenants, Miss Madeline O'Hallorin, was quoted in the community paper as saying, "I wish all landlords were like Herman." She should know, because our family has been her landlord for over 50 years.

1040

If this legislation is what you are doing to the best, what kind of signal are you sending to the landlord community as a whole? Not a very good one. The signal that is being sent is similar to the ones currently in vogue among the so-called non-profit housing advocates.

Bill Morris of the Co-op Housing Federation of Ontario told me that he did not think that private individuals should be allowed to own rental property, that it should all be owned by the state. Similarly, Penny McCabe of the Parkdale Tenants' Federation, who I think spoke to you yesterday, told me that as far as she was concerned private sector landlords should not be allowed to be in business.

Obviously, Bob Rae's quote on the subject, about making it so tough on us and then offering to buy us out, is revealing as to the present government's position. But I think that Michael Shapcott of the Rupert Hotel Coalition, which was just granted \$30 million from the provincial government, said it best in the June issue of *Toronto Life*. Excuse the offensive language; this is what Michael Shapcott said, not me: "If Jesus Christ were here, he would tell private sector landlords to get the fuck out of the housing business." These are the people who are supposed to be housing advocates? Get serious. By and large the private sector has been doing a good job of maintaining the rental stock in this province, and personally I think you have a lot of nerve treating us like criminals and then thinking we are going to kowtow to your decrees.

I love my province and I am a bit of a housing advocate myself. Between 1987 and 1989, I visited every regional landlord association in this province, as the chairman of the small property owners' committee of Fair Rental, in an effort to encourage landlords to fix up their buildings and improve tenant relations. I assisted the Ministry of Housing in the making of a TV show on apartment management and maintenance, and I wrote booklets on the subject of apartment maintenance and tenant relations.

Let me read you a quote from one of the booklets I wrote. The heading in the booklet is "Listening to Tenants" and it goes like this: "Tenants are your customers and one of the best sources of feedback about your business. Frequently their point is a worthwhile one. Sometimes you

can improve tenant relations and save money at the same time."

Do you think for one minute that I am going to continue going around this province trying to encourage landlords to maintain their buildings under your regime of terror? There is no way. I am not interested. I do not have the time. For landlords to fix up their buildings under the proposed Bill 121 is financial suicide.

Ms Harrington, let me ask you one question about housing supply. I watched you during the Bill 4 hearings and you seem like a reasonable person. Minister Cooke has said, when he was minister, that new buildings will not be under rent control for five years because that will give landlords a chance to break even. Would you take \$10,000 out of your RRSP and invest in an apartment building where at the end of 10 years or at the end of five years the best you are going to do is break even on your \$10,000? Would you make that kind of investment? No way.

That is really all I have to say. In summing up, there is just a lot that has to be fixed with this legislation, and I will not be fielding any questions because you are really not interested in my concerns. I have seen you question other landlords before and you were simply sitting there with closed ears, trying to defend your legislation rather than sincerely trying to amend the problems.

Mr Mancini, this is no way a reflection on the way you have chaired the committee, but I do not want to participate in this any longer. Thank you.

The Chair: Thank you very much for your presentation this morning.

Mr Tilson: Mr Chair, I am not asking a question, but I would like a copy of his remarks.

Mr Herman: I will get some made up.

320 LONSDALE ROAD TENANTS' ASSOCIATION

The Chair: The next presenter this morning is 320 Lonsdale Road Tenants' Association. Mr Stewart, good morning. Could you identify yourselves for the record. You have been allocated 15 minutes by the committee. You can use some of the time for questions and answers, but you will have to reserve the time.

Mr Stewart: The gentleman on my right is Randall Withell, who is president of the 1500 Bathurst Street Tenants' Association. He has helped me develop this brief.

I guess my brief is going to be quite technical, dealing with section 105 of the Rent Control Act. We are dealing with that because this section is inconsistent with other sections of the act and previous legislation. The pass-through mechanism which this is attempting to address in terms of property tax reductions should be rejected as it fails the test of reducing the number of applications filed and is inequitable and inconsistent. Furthermore, I think we have found a simpler solution.

Subsection 105(1) will further distort property taxes paid. Subsection 105(1) ignores several key components of property tax. Property tax is in fact based on four components in terms of how it is flowed through to tenants' rents. It is actually based on the assessment of the building, the mill rate, the total gross rent of the building and a tenant's

individual rent. This section of the act assumes that decreases in the assessed value of a property or a unit will decrease the maximum rent when this is not necessarily so.

Under the Rent Control Act, and all previous rent review legislation, increases in property tax are calculated as a percentage of rent and not on a per-unit assessed value. For example, in our building, which had been reassessed in 1988, the increase in taxes allowed by the Ministry of Housing under a whole building review was approximately \$26,000. This resulted in rents being increased by 12%.

Property tax expressed as a percentage of total gross rental income creates different dollar amounts of taxes paid for similar units. In 320 Lonsdale Road, the example I just gave you, the property taxes represent 26% of gross rental income. The property tax paid for one-bedroom units, which, by the way, are all the same physical size, varies from \$1,500 to \$2,300 and for two-bedroom units from approximately \$1,800 to \$2,500.

This property tax paid by individual tenants varies according to the rent paid and not the assessed value. Under the Assessment Act, though, similar apartments are assessed the same and are based on the assessed value of the whole building. For example, again using 320 as an example, the one-bedroom units are assessed at \$5,730 and the two-bedroom units at \$6,600. Thus, property taxes payable according to the Assessment Act for one-bedrooms would be approximately \$2,000 and for two-bedroom units approximately \$2,400. The two-bedroom units then would be assessed at 15% more than the one-bedroom units.

So property taxes owing under the Assessment Act do not equal property taxes owing under rent review. The Assessment Act equalizes property tax on the basis of the physical characteristics of the units, whereas rent review apportions property taxes on the basis of rent paid.

Under the Rent Control Act, though, we also have some problems within that legislation. Increases and decreases in property tax under sections 14 and 24, which are the landlord and tenant applications for extraordinary operating cost increases or decreases, are passed through on a percentage of rent basis. However, decreases under section 105 are going to be passed through on the per-unit assessed value, which is completely inconsistent with the rest of the act and previous legislation. This results in a situation that is unfair, inequitable and unacceptable.

Assuming the assessed value of 320 Lonsdale is reduced by \$20,000, property taxes would decrease by \$7,000. This means that property tax decreases experienced by individual tenants would range from 9% to about 15%, whereas under the percentage basis they would all receive the same percentage decrease.

1050

As illustrated, a complete lack of consistency exists between section 105 and sections 14 and 24. We think that if section 105 must remain, and we are not convinced it should, it must be made consistent with other sections of the act. Decreases in taxes must be based on the percentage-of-rent method.

Section 105 also has exclusions. Clause 105(1)(b) means that several tenants are not covered equally. In order

to have section 105 triggered, a municipality must pass a resolution requesting the province to get involved in this pass-through mechanism, which means that unless you are in, probably, Metro Toronto, most municipalities are not going to participate. Therefore, these tenants are not going to be included and they will have to file a section 24.

Furthermore, clause 105(1)(c) only provides for decreases in complexes of units greater than three. That means that any apartments over stores and any apartments in homes or in buildings with just three units are not going to be covered by this section of the act. They too will then have to file a section 24. We think both these clauses should be deleted.

Section 3 of the act, which deals with exemptions in terms of the categories of tenants, again eliminates the opportunity for tenants to obtain a property tax decrease. These tenants would include people like those in Ontario Housing or residents who are not members of non-profit co-operatives.

Just quickly then, enforcement and administration of section 105 is weak and unwieldy. It does not tell the landlord to pay any moneys owing forthwith and one might have to file a separate application demanding payment. Furthermore, in terms of the administration, it is estimated that approximately 200,000 units in Metro Toronto will be subject to the decreases. We think that is going to be an administrative nightmare.

Furthermore, in terms of timing, if an assessment is appealed, sometimes it takes two and a half to three years to get through the system to go up to the Ontario Municipal Board. What are you going to do if there is another application that comes down the pipeline under section 14 or 24?

Just going on, under market value assessment and the Rent Control Act, landlords face the loss of a building. The 3% cap is there and yet some of these landlords will be capped out under market value assessment increases. For example, on Lonsdale Road property tax increases in 1990 ranged anywhere from 25% to 105%. Our landlord would cap out under this legislation, only receiving \$7,000 and that would mean that he would have a deficit of \$20,000.

We think what he will do then is not only reduce his profit but actually reduce maintenance. Work orders will come out and then what will happen once the work orders are out is his rents will be frozen and once the rents are frozen and he is in a further deficit position—this of course accumulates every year—what happens is eventually the city is going to own the property.

Our solution is that we believe property taxes should be separated from rent. We think this would help the province in terms of eliminating administrative problems. There would be fewer applications under sections 14 and 24. Landlords would not have to deal with the uncertainty and the burden of property tax increases. In terms of collecting the tax, there would be no difference. It would still be in the rent, but separated from the rent. It would be like a commercial landlord.

There are several benefits for tenants. Decreases in property tax would automatically be received from the municipal government. They would be able to file assessment

appeals and hire agents to work on their behalf and obtain the full benefits if they are successful in their appeal. Tenants in similar units would pay similar taxes, which is more equitable than the current system. Eliminating property tax from assessment calculation would also eliminate the tax on the tax which currently exists. There are other benefits in my brief, but I would really like to take some time to answer some questions.

In summary, we would really urge the committee to reject the pass-through mechanism proposed under section 105 and actually request the minister to separate out the two, property tax from rent. I would also ask you to read the brief fully, because I have had to try to take just the major points.

The Chair: The Liberals have the first round of questions.

Ms Poole: Thank you for your presentation today. As you say, it was quite technical, but it raised a very valid point. In June, when the legislation came out, I raised a similar point with the ministry about the effect of market value assessment, particularly in the city of Toronto, when and if reassessment does occur.

The way it sits right now, in 1998 the freeze would be lifted and a large number of city of Toronto tenants and home owners would have huge tax increases. Your solution seems to provide for both alternatives. It makes it much easier if there is a reduction for the tenant to get it directly. It certainly makes it much easier for the landlord not to have to worry about a \$20,000-a-year deficit on property taxes, something he does not have any control over. I think it is obvious that the 3% you talked about in the cap would not be sufficient in the event of a major reassessment problem such as we may face in 1998.

One thing I would like to ask the ministry, Mr Chair, and as a former Minister of Revenue I am sure you are quite interested in this particular problem, is if it would take a look at this brief, which has been quite comprehensive, and give us an opinion of whether the problems pointed out by these gentlemen can be corrected in the legislation, either by eliminating that section or by providing a new section which would separate property taxes from rents. I would ask the ministry for that third item of information.

The Chair: Okay. It has been noted and we will distribute the information when we receive it.

Ms Harrington: You have certainly done a lot of work. I understand you have had substantial increases in your rent over the past few years. What Ms Poole has asked for I was actually going to ask our staff to try to respond to today, but I just do not think we have the time to have staff interact directly with you. I would like to have them answer your question about direct tax collection, if there is any way that fits with this legislation.

I also got a very clear message that you are concerned about the maintenance provisions and a cyclical effect. That is something I would like to look into as well.

Mr Stewart: Can I make one comment?

The Chair: Very briefly.

Mr Stewart: The other thing is that under market value assessment, even though reassessments under market value assessment will not happen until 1998 in terms of the full impact of increases, any reassessment can occur at any time, and the Minister of Revenue has kept that out. For example, reassessments that occurred on 320 Lonsdale Road can occur at any time.

Mr Turnbull: You have certainly hit my hot subject here, alluding to market value reassessment. You of course live in a building which is likely to have a significant increase in assessment under market value reassessment. One of the great problems we have in the core areas of Metropolitan Toronto is that we are likely to see very large tax increases. This bill runs totally in conflict to the suggestion that a landlord could possibly maintain his building and at the same time pay increased taxes.

I wholeheartedly agree with your suggestion that taxes should be separated out. I suggest maybe even going a step further, that municipal taxes might be billed directly to the tenants. At the moment, the tenants have very little way of finding out what the true tax is. You have done excellent research and you understand it very well, but I have known a lot of tenant groups that have had great difficulty in finding this out.

It does several things. First of all, it confronts the tenants with the reality as to what a large portion of their rent is taxes and is not in fact of the landlord's making. At the same time, it would eliminate this great problem in Bill 121 that essentially landlords, with the best will in the world, could not possibly, in the corollaries of Metropolitan Toronto, maintain their buildings, because all the money would be used for tax bills and then some more.

I just want to—

The Chair: The time has expired. Thank you.

1100

WALL PROPERTY MANAGEMENT INC

The Chair: The next presenter is Wall Property Management. We will be following the same procedure. If you wish to take part in questions and answers, we can inform you as to when you have four or five minutes left, or you can use all the time to make your presentation if you wish. You have until almost 11:16.

Mr Wall: Members of this committee, I would like to address you the following way. If a politician has the glasses on this way, he speaks the truth; if a politician has the glasses on this way, he speaks the truth; if a politician has the glasses on this way, he speaks the truth. But as soon as he opens his mouth, he lies.

I am a small landlord who manages a few apartment buildings. I would like to highlight a few areas of the proposed legislation, which I find reflects a total lack of understanding of investments: first, the cap imposed of 3% over the guideline; second, the reduction of 2% of operating allowance in each year for capital applications; third, the reduction of rents due to energy conservation and capital expenditures. These are only a few of the areas I find inequitable, but due to the time restraints today, I will limit myself to just these.

To explain my anger, I would like to use one of my properties as an example. I filed an application on September 28, 1990, under the Residential Rent Regulation Act for capital expenditures totalling in excess of \$900,000. I had anticipated a rent increase effective January 1, 1991, of approximately 22%. Retroactively, legislation was passed which stopped all consideration for all capital expenditures, but throughout the hearings into Bill 4, Mr Cooke promised fair treatment in the permanent legislation.

I would like this committee to look at how this "fair treatment" will deal with my property, in Bill 121, by following the example that I have handed out. Do you have that in front of you? Thank you.

We are dealing with a 170-unit apartment building at Eglinton Avenue and Kennedy Road in Scarborough. The age of the building is 30 years. The annual revenue is about \$1 million. The capital expenditures caught in the moratorium are in excess of \$900,000.

The nature of the capital expenditures is as follows: energy-efficient windows; waterproofing; a garbage compactor system resulting from environmental bylaw changes outlawing incineration, which was previously permitted; appliances; plumbing; a new roof; electrical work; a new fire alarm, updated to today's current code; an emergency lighting system and generator, again updated to today's code; installation of smoke detectors, updated to today's fire codes. These items were not required due to neglect or faulty maintenance. The moneys were spent as the items had reached the end of their useful life and required updating.

The anticipated justified rent increase under Bill 51 would have been 22%; overall increase allowance, \$160,000 on capital. Your proposed treatment under Bill 121: the initial year allowance is \$30,000, equalling 3%; the second year allowance, approximately \$31,000, a further 3%.

The cost of financing: Funds were borrowed at prime plus 2%, ranging from 12% to 13%, so interest averaged approximately 12.5%. The annual financing, interest costs alone, is \$112,500. The shortfall in the initial year is therefore \$82,500; the loss or shortfall in the second year is \$51,000, and the shortfall in each subsequent year is \$51,000 less a compounding factor. That is your treatment of a landlord who tries to maintain and upgrade his building. The above losses only recognize the cost of interest on the loan, not repayment of any principle. Is this fair treatment?

The property has been owned by the same landlord since 1969. Projecting this annual shortfall, and without considering future required capital expenditures, you can easily see that the equity in this property will quickly be eroded and will eventually reach the point where lending institutions will no longer lend money for future work. Any future work required might result in a work order; therefore, I will need additional funds or I will face the probability of rent reductions, which would only compound the problem.

The legislation states that the rent officer shall look at rent reductions before he considers any rent increases. It says "shall," not "may." Furthermore, if my expenditures of approximately \$300,000 for windows result in any energy savings, the reward for this improvement will go as a

reduction in rent increases to the tenants, and I am left with the losses.

This building is only one example of my experiences. I have another property in Newmarket that is approximately 50 years old which I completely gutted and rebuilt. This application for rent increase was also caught in the moratorium. Now this "fair treatment" will allow me a rent increase of \$3,600 over two years on a renovation that has cost in excess of \$200,000. Is that fair treatment?

Who will pay to maintain the properties when the investors are driven out? If the government has to maintain these buildings to the levels that are demanded from landlords, the deficit that currently faces Ontario will double. Have you given that any thought?

I therefore would like to make the following recommendations: first, that you reconsider the cap of 3% over the guideline; second, that you consider changing the 2% reduction of the guideline for capital expenditures to a 1% reduction, and have this only apply once to any given application, not in each subsequent year; third, that you reconsider the reduction of rent increases due to energy savings resulting from capital expenditures, until the expenditure is paid for.

In my closing remarks, I observe today's *Globe and Mail*, and I quote:

"In shuffling his cabinet yesterday, Ontario Premier Bob Rae set out to try to win the goodwill of the province's business community and admitted that he needs business support if his government is to succeed."

You have the opportunity to be addressed during these upcoming hearings by a great many landlords and other interested groups such as tenants, who on the other hand are employees as well. The segment of the economy which landlords represent is vital. If this quote is correct, if Mr Rae means what he says, and his new Housing minister, Ms Gigantes, then I am ready to see the deeds which you undertake where you have an opportunity to change this piece of ill-conceived legislation.

I further quote from the same article: "The Premier shifted three ministers and added a fourth and all have a mandate to work with business groups and private companies. Their job is to try to convince them that the government is more pro-business than it has been painted." Again I invite you to take this opportunity during the hearings to look again at what you are doing.

1110

Mr Tilson: Many of your comments I have given in speeches in the House, and I agree with a lot of what you have said. The four socialists over there will make statements to you: "Why have the landlords taken so long to do all of these things? Why are they doing it all in one year? They are ripping off the system and they are gouging the system. If they had been maintaining the buildings as they should, all of these capital expenditures would not be needed in one year." I have been waiting for someone like you to come and help me defend that position. Could give your comments on that allegation? Because if they do not make it next—you might as well be prepared for it.

Mr Wall: I appreciate the opportunity to comment on this. I would like to answer this way. At least 50%—you have a good number of this percentage in your ministry, of how old apartment buildings are. In answer to the question, it is a planned process over years. The example I gave you is a landlord who has owned a building since 1969 and has spent \$900,000 on this capital application. Previously the building was maintained with other sections. It is a 170-unit building; it is a big building. There are ongoing capital items proceeding at all times; there are not only items which are picked in order to facilitate rent increases.

Buildings have to be maintained and scheduled. Mr Griesdorf pointed this out to your committee yesterday. Landlords plan these expenditures. They are ongoing. There are the costs of keeping and updating a building to the required new fire systems, security systems, emergency lighting systems—again, I did not mention this particularly in my speech, but that is what should be added on, in addition to the energy savings, as I mentioned to you.

Mr Mahoney: Did you have conditional order approvals on the \$900,000 in repairs? And what was the reaction of your tenants to all of the work that you did and to your subsequently getting caught in the moratorium?

Mr Wall: The work was necessary and appreciated by the tenants, and the tenants feel that it is completely unfair. They realize that necessary work has been done to the building. The comments I have are that they understand that this is unfair, that no return on invested moneys—

Mr Mahoney: Do they know about the 22% rent increase?

Mr Wall: Yes, obviously.

Mr Mahoney: And?

Mr Wall: The response was very favourable. After this 22% rent increase has been applied, it is only \$600 for a one-bedroom apartment in a modern, up-to-date building. There is great understanding on their part.

Ms Harrington: I will just make a brief statement and then my colleague Mr Abel has a question.

I agree certainly that landlords must plan ongoing repairs, and there are very many landlords who did not go to rent review for extra financing but managed, with very careful planning, to do it within the guideline increase. I am hoping that will happen. It is important to have stabilized rents for tenants. You, as a landlord, probably understand that as well as we do. That is the guiding force behind this legislation, as you know.

I wanted to reiterate that our government does want to work together. Maybe, as you say, the new cabinet is more focused in that direction.

Mr Abel has a question for you.

The Chair: Very quickly, please.

Mr Abel: You indicated you want guideline increases for financial and economic loss. How would I, or you for that matter, explain to a tenant that he is expected to subsidize your financial and economic loss, or any financial and economic loss that may occur? How would I explain that to a tenant or to a group of tenants?

Mr Wall: A fair tenant will understand that in any part of the world, investment and a dollar need a return. If a dollar does not receive a return on investment, the dollar shall not be spent.

The Chair: Thank you. I am sorry, time has expired for your presentation, sir.

AFFORDABLE HOUSING ACTION GROUP

The Chair: The next delegation is the Affordable Housing Action Group. We will be following the same procedure. You can withhold some of your time for questions and answers and you have 15 minutes. We would ask you to identify yourself for the Hansard record.

Ms Stewart: I am Fiona Stewart, co-ordinator of the Affordable Housing Action Group, a Toronto-based provincial coalition of faith, labour, housing and social service organizations. We have come here today to speak to Bill 121.

In terms of a written submission, we would like to endorse the submission made yesterday by Leslie Robinson from Metro Tenants Legal Services and add our name to that part of the written submission. We may along the way submit further documentation, depending on what other deputants are saying or depending on new information which is brought to our attention.

We always believe in starting off on the good side of things, so we are going to tell you what we like about Bill 121. There are obviously much stronger maintenance provisions. Landlords no longer have the same right to mismanage buildings in the way they did, because they will not be receiving their increases, and that part we really like. There will be no rent increases more than 3% above the guideline. We like that to a degree, but we have some serious problems with it, which I will get into in a few minutes. Financing costs, unnecessary capital costs and consulting costs—

Mr Tilson: I am having difficulty hearing you.

Ms Stewart: I am sorry.

Mr Turnbull: Excuse me, just as a point, there do not seem to be any loudspeakers in this room.

Mr Tilson: It is our turn to attack the room, Mr Chair.

The Chair: This is one of the worst committee rooms in the building. Unfortunately, we are stuck with it. Successive governments since 1900 have refused to spend any money on upgrading this building.

1120

Ms Stewart: I will try to speak louder.

Financing costs, unnecessary capital costs and consulting costs are no longer considered for rent increases. We are very pleased with this. We always resented the fact that tenants were paying for rent review consultants and lawyers to represent tenants before the rent review board.

Unfortunately, there are a lot of things about Bill 121 that we find will be very difficult for tenants in this province. We know that tenants possibly could be facing 8% rent increases perhaps, by the time the 3% factor is figured in, if landlords choose to go to the rent review board. We are very wary of this, because we know that people's sala-

ries do not meet it and we know that this will end up in economic evictions.

Our major concern is that rents are already over-inflated, and this is not redressing the problem. We know there is a correlation between the use of food banks and the high rents that people are paying. This is not only the case in Metropolitan Toronto; it is the case in Kitchener, Hamilton, Waterloo. It is not a Toronto-based problem; it is a provincial problem. People are going hungry so they can pay their rent, and we firmly believe that the NDP must keep its commitment to having the guideline tied to inflation. Without this, we know that people will suffer and we will never redress the issues of poverty.

On some more technical sides of the issue, on the change in capital expense pass-through, we fear that the overdue and increasing need for capital improvements in rental buildings will be no better addressed by this bill than it was by the RRRA. We consider the inclusion of capital expenses cost pass-through as the biggest broken promise to tenants by the new NDP government. As long as rents are allowed to increase faster than tenants' incomes, the affordability of rental housing will continue to erode, causing homelessness and other affordability problems for tenants.

There is no good reason to increase rents faster than inflation in housing if it is being kept up to its original standard. If rental housing deteriorates, rents should increase slower than inflation, and in fact we know that even under past legislation some landlords have not been keeping up their buildings. We feel that tenants should not be paying for the wrongdoings of landlords in the past and for their negligence. As in all businesses, we believe that we should put money away for a rainy day and we believe that landlords have that commitment.

We want to really express our disappointment that many groups spent a long time doing a study on reserve funds. We believe that there should be some type of reserve fund for private renters. What will happen to the money that should be spent on costs of maintenance? It will go directly into the landlords' pockets under this bill, with no stipulation that it has to be spent on ordinary kinds of repairs, and this is a real concern to us.

We find it odd that this is the only sort of housing that is not governed by reserve fund legislation. When we look at the Condominium Act, condominiums must have a reserve fund. When we look at the Co-operative Corporations Act, the co-ops are required to have a reserve fund. All private non-profit housing in this province is required to have a reserve fund. So we ask the question, "why is it that private landlords are not required to do the same thing?"

We do not look at housing as the type of business where it is a commodity being passed back and forth. Rather we see it as something as universal as health care or education. In this country, people cannot live without housing; it is unrealistic. As I said before, unless the legislation is tied to inflation, we have grave fears that there will be economic evictions and that food banks will continue to be a successful business in this province, and that is not what we expected from this government.

At this point I really have nothing further to add, except that once again we fully endorse the submission made yesterday by Leslie Robinson from Metro Tenants Legal Services.

The Chair: Okay, thank you. We have about two minutes per party for questions.

Ms Harrington: Thank you very much for coming. I have a couple of things. Yesterday in the news I think we all saw the customs officers in Niagara Falls walking up and down protesting on the Rainbow Bridge. What they were chanting was, "Zero per cent won't pay the rent." I think it very clearly illustrates, although they probably have very good salaries, that rent is primary to all the rest of your expenses. It is even more so with the people you are discussing, or the majority of our society.

There are a couple of things I wanted to mention to you that I would like to carry forward, and that is that the rents are already inflated, the horrors of the past, and that unfortunately, and it was pointed out yesterday, the worst thing about this bill is that it sits on top of previous legislation. I would like to tell you that we just cannot go back and redress all the sins of the past. We have to start as of October 1, which is what we are trying to do.

The cost of land and the flipping of apartment units have all added up to operating costs now which are high for landlords, and what we have found out since October 1 is that there is a problem with aging buildings, you know, the concrete, underground parking, plus many other things of 20- and 25-year-old buildings. We think it is our responsibility to both the landlords and tenants of this province to make sure that there is maintenance and major repairs. That is why we have, as you mentioned, this cap of extra pass-through, which is a problem. It is a very difficult situation and we will try to take into account what you have told us.

Mr Tilson: You made some comments with respect to reserve funds, and of course the legislation fortunately did not deal with that. I feared that it would, and fortunately it did not. However, in case it does, I would like to ask you two questions with respect to reserve funds.

The first question is, where is the money going to come from? Is the money going to come from the taxpayer? Is the money going to come from the landlord? Is the money going to come from the tenant? When you start talking tremendous capital expenditures, contributions by landlords and tenants are nickels compared to what is required.

The second question is, would this not penalize good landlords? Contrary to what the four socialists over here say, there are good landlords in this world. There are landlords who do set plans forward and do do work over the years to keep their buildings up. There are a lot of bad landlords. Would this reserve fund principle not penalize those good landlords?

Ms Stewart: To answer your first question, I think it has been quite apparent over the last 25 years that landlords have not spent money annually doing proper repairs. Had they done those repairs, they would not be in the situation today where they are asking for huge capital increases. A reserve fund is like an insurance fund. It is the

only protection. It protects the landlord because he can do a long-term maintenance plan, he can amortize the funds over a number of years. Yes, we do believe landlords should have to put that money into their buildings.

Mr Tilson: Where does it come from?

Ms Stewart: It comes from the landlords. The landlord benefits in that the value of his property increases when his building is well kept, and when he wants to go and sell it, all the money he has put into it is going to make a big difference, whether he has an underground garage that is crumbling or one that has been repaired properly and all sorts of other selling features. Certainly the boards of directors of non-profits, who are also landlords—

Mr Tilson: They are not subject to rent controls.

Ms Stewart: That is true, they are not.

Mr Tilson: They get government moneys. They get government contributions. They get government subsidies. Co-ops and non-profit housing are strictly subsidized by the taxpayers.

Ms Stewart: A lot of private accommodation gets funds.

Ms Poole: Thanks for your presentation, Fiona. I wanted to follow up on the capital reserve fund as well. I like the concept, but it is much more difficult to implement with rental housing than it is with the others. The other ones you mentioned, like condominiums, co-operatives, are new creatures. They are 15 years old, or younger, in most cases. It is relatively easier to start off with a new building and put a reserve fund in, because it is going to be 10 or 15 years before you really have to draw on it to any extent, so it can build up. One of the big problems we have with rental housing is that the vast majority of it is older than 20 years. I see that as problematic. I sympathize with what you want to do; it is just going to be extremely difficult to do it. One thing that Leslie Robinson suggested yesterday was that we start with new buildings.

Ms Stewart: That is also our position. We understand. We have looked into the issue. We have spent hours discussing it. We understand the problems of implementing this with 25-year-old buildings. However, there are equity co-ops that are doing it, the co-ops that are not covered really by any act. Buildings prior to the Rental Housing Protection Act certainly have to do it. There are ways and means out there of doing it to older buildings, but we would be perfectly happy to start with new construction. We believe that would be a first step, and then perhaps in the future we could work towards addressing the issues of the older stock.

We endorse what Leslie said. We agree with it. As I said, we have spent a long time consulting. Leslie is a member of our group too. That is what we would like to see as a starting position.

1130

Ms Poole: I think that would make sense. Also, the rents would be reflecting right from day one that there would be this buildup, and then landlords would not need to be going for large rent increases because it should be contained within the rents.

Ms Stewart: That is right.

The Chair: Very good. Thank you for your presentation.

LANDLORD SELF HELP CENTRE

The Chair: The next delegation is the Landlord Self Help Centre. The committee has allocated 15 minutes for your presentation. We will be following the same procedure. If you would like questions and answers, we will have to save some time at the end of your presentation.

My name is Peter Libman. I am the president of the board of directors of the clinic Landlord Self Help Centre. With me is Alda Pereira, who is one of the staff members. This morning you also had the benefit of a presentation from our treasurer, Rob Herman, who spoke to you about an hour ago. So you have actually had two presentations from us, although Rob gave his on behalf of his own company.

Our clinic is a legal aid-funded clinic that has been in operation since 1976, about 15 years, and it primarily helps out the small landlord. The small landlord is defined by legal aid as a landlord with one to four units, usually owner-occupied. To get any assistance from our clinic, they also have to meet legal aid's financial assets and income test. Our clinic really assists the small person, not anyone with any large portfolios.

We have five staff members at the clinic. We manage to deal with about 18,000 small landlords a year, so we are very busy at our clinic. We advise and we put on seminars for them. In August I see our staff at the clinic have ambitiously scheduled 26 seminars for small landlords, so it is a very active clinic. I have a list of the seminars. It is unbelievable how many they try to fit just into a 30-day period.

I would like to thank the Chairman for the opportunity, on behalf of the clinic, to make this presentation. I think perhaps it is trite to say that all landlords are against rent control and I think most economists are also against it, but we also have to be aware of the political realities of the situation. In this province we have had three different parties, three different governments that have brought in rent control.

The Conservatives first brought it in in 1975, although they exempted newly built buildings. In 1985 and 1986 the Liberals extended it to make it universal, and now this government has completely revised that system and introduced a rent control system as opposed to a rent regulation system.

There are features in this new Bill 121 which do assist the small landlord. I appreciate the government is looking after some of the interests of the small landlords. The previous government had one section in Bill 51 that was primarily to help small landlords. That was section 91 dealing with chronically depressed rents—the 2% catch-up—but unfortunately the government never proclaimed that section and of course it is not in this bill.

One of the features for the small landlords is the fact that they are allowed to continue with the building operating cost index guideline increases per year without an application. Because we do not have the regulations for the bill, I assume the formula for the rent increases will be almost identical to the present system. I do not think anyone has come up with a successful argument why that

formula should change. It is a formula that makes sense. It is tied into inflation and deals with the components a landlord encounters in the proper operation of a building.

Another feature that is of attraction to small landlords is the fact that the government has not imposed the rent registry for the one to three units, which primarily are the users of our clinic. You have brought it in for the four to six, but you have not made it retroactive to August 1, 1985, which the previous bill did. I think the government probably realizes that if you made a long retroactive period, you would have the same problems we encountered in Bill 51 when we started a system with an 18-month retroactivity. It led to incredible backlog and delay. Some of the buildings that tried to register in 1986 still have not registered because of problems with the 9R forms and problems like that. The government certainly is aware of the cost factor and the problems with trying to bring in all the units.

In terms of the technical part of the bill, I personally have spent two and a half hours with ministry staff, as only a lawyer could, and have dealt with every word of the bill. My copy of Bill 121 is well marked with annotations and I have told them, in my opinion, the drafting and the other technical problems that I think are incumbent or that you find in the bill. I trust the government staff will take my comments to heart in whatever revisions come up and re-drafting at the next reading, and that the government will at least consider those revisions. I am not not going to go through the same comments because I do not have two and a half hours, but I am sure they are available to the committee, if you want them, from ministry staff.

The one area I do want to bring to your attention, because I think this probably will affect small landlords more than large landlords, is section 39 and the related sections. That is the section of the act that deals with the rent penalty, where the government finds it has work orders or bylaw infractions registered with it for longer than 30 days.

Just as a way of background, I should indicate that I was a member of the advisory committee that negotiated that bill, so I am very familiar with the discussions that went into that bill. Under the present bill, Bill 51, both the landlord and tenant representatives agreed to a standards board, which became section 15 and section 16 of the present act. This government has replaced the standards board. They have taken it out completely and I cannot say that I am opposed to that.

I do not think the standards board lived up to the expectation that the Rent Review Advisory Committee members had for it in late 1986, but in replacing it with section 39 and the related sections, they have not carried forward the safeguards of the standards board as found in section 16 of the present act. What those sections say, when you review them, is that when the minister is to determine a rent penalty, he is to look at various factors, like the availability of materials for making repairs and the financial considerations: Can the landlord obtain money for financing to do these repairs? Are there people available who can do the work? Obviously, if you have an order to repair the

swimming pool in January and it is an outside pool, you are going to have a lot of difficulty in doing that.

As Rob Herman mentioned in his presentation, a lot of the buildings are older and are really incapable of major repairs without basically tearing them down and starting over again. It is a fact that we have an aging rental stock in Ontario, and the standards board and the minister were directed to look at all those factors before imposing a rent penalty. Section 39 does not bring any of those factors in. It only says that 30 days after the imposing of this notice to the landlord of the work order, the minister will make these rent penalties. I think the government seriously has to reconsider that and perhaps bring in, if not the same safeguards as section 16, at least a hybrid version of it.

The final comment I want to make, because I want to leave some time for questions and comments, because Mr Herman did not, is that I think the success or failure of the whole system will depend upon the personnel who administer it. I presented many cases before the hearings board, most of them on behalf of tenants, including my own parents, and I was very disappointed in the quality of the hearings board officers and of the hearings themselves.

I have made these comments to the ministry and I trust that under the new system we will get qualified people and that we will have adjudicated hearings that leave you with the sense that you have had a system based on the real merits of justice when you walk away from it, a phrase which I notice is not in the new bill, but I take it that the same intent is behind the legislation.

1140

Ms Poole: Thank you for your comments today. I was particularly interested in your comments about the work orders and the enforcement of the maintenance provisions. I have seen certain problems in the bill as it now stands.

You may be aware that the Liberal caucus had proposed what on the surface might look to be a similar provision in the Bill 4 hearings, an amendment which was rejected at the time, but there were two significant differences: One is that our amendment only dealt with substantive repairs, and the other is that there was a provision that the landlord would have to show he had made every effort to substantively complete the work. If these two things failed, then there could be a rent penalty.

You have said that when the standards board was replaced with this legislation it did not bring in the same safeguards, what the minister had to consider prior to the rent penalty. Could you just give us a few more comments on that and what you would like to see?

Mr Libman: In Bill 51, our present law, we built into the definition what we called the triple S definition. I think it is two "substantials" and "subsisting." We left that to the regulations, and then we left what that meant to interpretation. Perhaps that was a mistake. We probably should have defined it, but at least that was one level of a safeguard.

Another definition we put into Bill 51 which is not in the present bill was "wilful and ongoing neglect," and there were reasons for all the words. Because Bill 51 was the product of a committee, every word was debated, especially by the lawyers on the committee, and every word

had a reason behind it. When I see these words omitted in the present bill—they may be picked up in regulation, but I would feel better having them in the bill itself and not being left to regulation.

Mr Duignan: Would you be in favour of the establishment of a new rent control advisory committee?

Mr Libman: Yes, and I would even be willing to be on it, notwithstanding the fact that in 1986 I spent 98 days at hearings of various committees. Once you are into the system, you want to follow it through to the very end.

Mr Duignan: Would you like to see that as part of the bill?

Mr Libman: I do not think you need it in the bill itself. In Bill 51, I think in section 11, we built in what we thought might be a new rent control advisory committee by talking about periodic review, but it was not picked up by the government. In 1986 the minister, by his powers as Minister of Housing, designated this advisory committee. It was not part of any legislation, just a general authority. I think the minister certainly could do that and it is obviously an advisory committee to him, and then he makes the presentation to the House.

I think it is critical to have the opinions of both landlord and tenant representatives. I notice Leslie is in the room; she was in there with the committee for the tenants. You develop a rapport between landlord and tenant representatives, and I think all sides try to work together for the benefit of all. Advisory committees are really useful and I certainly would like the minister to consider a new advisory committee. In fact, I think it was in his green paper as one of the options he had.

Mr Duignan: What would you consider as the most important amendment to this legislation?

Mr Libman: I think the number one most important amendment is section 39, the work orders, and the comments I have just made. The second most important amendment would be dealing with the extraordinary expenses, and I would like to expand the definition. I think the present law has three times as many items as the bill, things like extraordinary increases in interest financing, which is really out of the control of the landlord. There are some of the economic things I would like amended, but I think the work orders are my number one priority.

Mr Tilson: I, as one member of the committee, would love to have your crib notes on the act.

Mr Libman: The ministry staff has them. They took down everything I said. I did not take down the notes because I was talking at the time.

Mr Tilson: I would like you to elaborate somewhat on the rent registry system, particularly in your emphasis on those under six units. A number of landlords with under six units have contacted me and said, "Listen, we are in a recession; there are vacancies, we are going to lower our rents," and they have lowered their rents. The difficulty is, of course, in getting into the registration system. It is going to make it very difficult for them to do that, so I would like you to comment on that point.

The second point is with respect to the bureaucracy. Under Bill 51, registration essentially was there but it never really happened. You have obviously had some experience. Technically it should have happened, but it did not happen. If this government goes through with the rent registration system it has said it is going to go through with, what do you anticipate that will mean in new civil servants in this industry?

Mr Libman: I am optimistic that the experience the government has had in the past five years with the rent registry will be taken to heart and that it will not repeat the mistakes. On January 1, 1987, when Bill 51 came into effect, first of all they built in the 18-month retroactivity, which was a nightmare.

Second, they were not ready in terms of registration. They had not finalized what forms they wanted, and over the first two years they kept amending the forms and saying, "Even though you have filled out the proper forms, we're going to discount them." I am hoping that when they extend the registration, they will have a well thought out plan. They have between now and January 1, so they have lots of time. They are not under the pressure that they were back in 1986. I am hoping they will do a better job.

I think it is a nightmare. I have a client who filled out his registration form in 1987. In 1991, four years later, he still has not got it through the rent registry. That is just ridiculous for something that we thought was a simplified form.

For your other question about the rent being too high, in the one case I did on behalf of my parents and other tenants for a building on Walmer Road, the landlord was successful in getting about a 22% rent increase which he sought because it was pursuant to the bill, the financial loss and all those other things we put in there. But the effect was that the tenants could not afford it and they just moved out. Once you get the rents up to the \$2,200-a-month level, tenants cannot afford it and they are going to look for another place to live. So the landlords really did themselves a disservice.

Mr Tilson: If this goes through, there is no way the rents are going to be reduced; no way in a million years. They will lie vacant.

The Vice-Chair: Thank you. As usual, we enjoyed your presentation.

1150

ONTARIO PUBLIC SERVICE
EMPLOYEES UNION

The Vice-Chair: The next presentation will be made by the Ontario Public Service Employees Union. I would ask that you introduce yourselves for the purpose of Hansard. You have seen the way the committee is operated. You have 15 minutes to make your presentation. If you would like to reserve some time for conversation with the committee, that will be fine.

Ms Whitehead: My name is Carol Whitehead and I am a staff person at OPSEU.

Ms Bobb: I am Yvonne Bobb, chair of the ministry employee relations committee for the Ministry of Housing and the Ministry of Municipal Affairs.

Ms Mitchell: I am Judy Mitchell, a member of OPSEU and a member of the Metro Toronto tenants' association.

Mr Ross: My name is Don Ross. I am with the rent review hearings board.

Ms Mitchell: We appreciate the opportunity to speak to you this day and to provide input into the proposed rent control legislation, Bill 121.

The Ontario Public Service Employees Union has over 100,000 members working in the province of Ontario, and these include workers in the Ministry of Housing and the legal clinics. As a representative of these staff, OPSEU has a unique position to provide information "from the floor up" as to what may be problematic in the legislation and what may need clarification or amendment if Bill 121 is to live up to the government's intention to better protect tenants from high rent increases and to ensure the maintenance of existing rental housing.

Given the limited time we have to make this presentation, we will today focus on some of the major issues that we think should be given consideration if the legislation is to work in practice. We will, of course, follow this up with a written submission.

In addition, the members of OPSEU who compiled this brief, and who work in areas where there is a variety of work to be administered and represent workers in these areas, would like to offer to this committee, and to the minister's office, our continued support in this project and the benefit of our knowledge and experience.

Mr Ross: OPSEU's position is that Bill 121 is a good piece of legislation which, with extensive revision, can be made a whole lot better. There is no need to be rushing this bill. Bill 4 allows the opportunity for at least an additional year of review of this legislation, should it be appropriate. Our main concern is that there are too many loopholes and too much ambiguous wording within this proposed legislation, which relies on guidelines, regulations and the goodwill of the bureaucracy to interpret and enforce. There is currently staff input through the committees being formed within the Ministry of Housing and we think this is a worthy initiative. Many aspects of housing policy, though, are political, not merely procedural. The clearer the legislation is, the fairer it will be and the easier to administer and implement.

Our understanding of the government's stated philosophy on housing policy is that it is to preserve and maintain rental housing in Ontario. To do this we need healthy and viable landlords and adequately protected tenants. We feel that the legislation must strive to eliminate grey areas. In Bill 121, the principal grey areas are maintenance standards and enforcement, public education, the concept of maximum legal rent, exemptions, proof required for increases above the guidelines, the calculation of the guidelines, capital expenditures, costs no longer borne, carry-forwards and the rent registry. Again, our time today does not allow us to address all these issues. We will outline some of what we feel are our more pressing concerns and expand on the others in our written submission to follow.

Regarding maintenance standards and enforcement, minimum provincial guidelines must be in effect and enforced.

The current proposal leaves room for interpretation which may not guarantee that the province maintains bottom line responsibility to ensure adequate maintenance across the province. Proposed section 112 of the bill currently reads that, "The director may appoint inspectors for the purposes of this act." However, in order to ensure that the province lives up to its responsibility, we would suggest amending that section, for example, to read, "The director shall appoint inspectors."

Current province-wide standards regarding enforcement are grossly inconsistent and therefore discriminatory both against tenants and landlords. There is a right to adequate maintenance; enforcement should not depend on where one lives. Maintenance issues are often a matter of some urgency for tenants, and if not addressed quickly can result in higher cost to landlords because of rapid deterioration.

The problems are difficult to avoid in a system where both municipal and provincial governments provide a service. Similar situations are currently being addressed in reviews of ambulance services and income maintenance delivery. In addition, many other services are being reviewed under the Hopcroft report. We feel the administration of these services should be at the provincial level for consistency and fairness. As a minimum, where a municipality is not fulfilling its responsibility, ensuring enforcement of provincial standards, the province must step in in a timely manner and the legislation must provide for this.

The legislation must guarantee that tenants' rights and landlords' responsibilities are equally guaranteed. The section on compliance with standards requires that landlords' claims for compliance must be responded to by the director, but does not make the same provisions for tenant complaints of non-compliance. This must be amended or a new section created to ensure that tenant claims of insufficient maintenance are also responded to by the province.

Wherever maintenance standards are not being complied with, a work order must be given. We suggest that subsection 37(1) be amended to read:

"If an inspector is satisfied that the landlord of a residential complex has not complied with a prescribed maintenance standard that applies to the residential complex, the inspector shall"—not a discretionary item, but "shall"—"make and give to the landlord a work order requiring the landlord to comply with the prescribed maintenance standard." This should not be discretionary.

Other issues around maintenance will be addressed in our written submission. Both tenants and landlords need to understand their rights and responsibilities under the law. The government must guarantee that this information is accessible and available to all. Current public education is insufficient and can be addressed in a number of ways.

Ministry of Housing staff must be allowed to interpret the legislation. Currently we are restricted from doing anything but stating what the act says and referring further questions to legal aid or other legal sources. You would probably agree that legislation is often indecipherable. Link this to legal aid and other legal services which are often difficult to access, such as the situation in Toronto where legal aid and tenant legal information phone lines are busy virtually all day. Wherever you are in Ontario,

your constituents would find it difficult to receive the information and support they require.

Bill 121 should allow staff to give basic interpretation of the legislation. These may be official interpretations to ensure objectivity, which would be legitimate in straightforward, simple language if made available in different languages to serve our multicultural province and also the developmentally disadvantaged. The public service provides viable models for public education which you may want to consider. Both the Pay Equity Commission and the worker adviser section of the Workers' Compensation Board would be appropriate.

The Ministry of Housing should ensure that legal clinics and community legal education of Ontario are sufficiently funded to guarantee that tenants requiring legal assistance and information receive it. To ensure fairness, section 59 should be changed to ensure that all applicants receive a hearing unless all parties agree that an administrative review is sufficient; and subsection 59(6) must be removed so that neither a tenant nor a landlord ever loses the right to a hearing. There are many ways to deal with this, including the reintroduction of an appeal level. The legislation should also provide for tenants and landlords to make application for a panel of three to hear their case, which may be granted at the director's discretion and which is an option that should be left open.

We have concern about inequities in the current formula for calculating both guideline and allowable increases. The current formulas are problematic and we suggest that some creative thinking needs to be done to ensure that formulas are fair to all. For example, the allowance for different guidelines for large and small buildings is discriminatory both against tenants of small buildings, including many outside the city of Toronto, and landlords of large buildings. Some tenants pay twice for hydro and cable, once through the allowable increase for costs that are built into the guideline, and then again because they pay their own hydro and cable bills. We suggest you may want to give this issue more study to ensure fairness in the calculations for all concerned.

With capital expenditures, we again have major concerns. Bill 121 includes a 2% allowance for capital expenditures built into the formula. Under the previous legislation, 1% has been built into the formula since 1986. Landlords should be required to prove that this allowance, which tenants have been paying as part of guideline increases since 1986, has in fact been spent before they should be allowed an increase above the guidelines. Landlords have the documentation necessary to prove this as they are required to keep it under the Income Tax Act.

There is also the principle that capital expenditures should be replaced at the end of their useful lives. Tenants should only pay for these things once. The legislation should be amended to include a section that says, "Any rent order which includes an allowance for capital expenditures above the guideline must state the anticipated useful life used for the calculation and include as a condition of the order that the rent will be reduced by the same percentage as allowed for that specific expenditure at the end of the useful life."

Both current and proposed systems contain disincentives that discourage landlords from renewing capital expenditures because the allowance is for ever and the useful life expires long before that.

In addition, capital expenditures for items that are rented should be considered operating costs. The legislation should be amended to add, "Where capital expenditure items are replaced by rental items, the rental items shall be deemed to be included in the operating cost and no increase in allowance provided for."

The definition of "capital expenditures" is too broad and could potentially be interpreted to cover what could be considered operating costs. To avoid this, the definition should be amended to include "any major expenditure which is (a) not undertaken as an operating cost, and (b) the benefit of which would extend for more than one year."

It is obvious that our concerns are many and varied. We have front-line, day-to-day experience working with the legislation. We want to ensure that we can administer this new act fairly and within the spirit of the Legislature's intentions. Developing strong legislation with few loopholes is a large task, and leaving too much open to interpretation is, we believe, problematic and unnecessary.

Working together, we can shape this bill into the great piece of legislation it can become. Given the range of our concerns contained in this and in other submissions that you will hear, and even from your own legal staff, we urge you to extend your deadlines.

We thank you for considering this and we can take any questions if they can be squeezed in.

The Vice-Chair: We have time for one question from Mr Mammoliti.

Mr Mammoliti: It is always nice to know that the people who are actually drafting up the bill and their representatives can come in front of a government and state their opinion. I think that is great. On that topic, we have had some criticism, however.

Ms Poole: On a point of clarification, Mr Chairman: Did OPSEU address this bill? Is that what you just said?

Mr Mammoliti: That is what I am getting into.

The Vice-Chair: You do not have a lot of time.

Mr Mammoliti: I understand that 175 of the employees you are representing are the ones who are drafting this bill, working on this bill.

The Vice-Chair: Do you have a question?

Mr Mammoliti: We had some pretty negative comments about the bureaucrats who are drafting the bill. More specifically, even this morning, somebody said that to make this bill effective the bureaucrats who are working on it should be changed. What do you have to say to those people who are negative towards your union members, the people you represent? They had some pretty negative things to say.

Ms Whitehead: To clarify, the majority of the people that I presume you are referring to, the 175 people who as you say are drafting the bill, are the people who are on the steering committees and other committees currently being developed within the ministry. Many of them are not OPSEU members; a few of them are OPSEU-appointed members.

We are still working to ensure that there is official OPSEU representation on the committees, so most of them in fact are not OPSEU members. As far as I know, all those committees are doing is drafting the guidelines and regulations that will help them to administer the bill. Our point here in fact is that while that is obviously an important and necessary part of administering any legislation, this committee as government officials responsible for the legislation itself should be making it as tight as possible so that regulations and guidelines are limited only to how it is actually administered.

Mr Mammoliti: You did not answer my question.

The Vice-Chair: We had trouble finding the question.

Mr Mammoliti: My question was, what do you have to say—

The Vice-Chair: The time has expired. Mr Mahoney has a question he might want to ask after the committee has adjourned.

The committee recessed at 1205.

AFTERNOON SITTING

The committee resumed at 1402.

TANDEM REALTY ADMINISTRATION INC

The Vice-Chair: Good afternoon. This afternoon the business of the committee is to conduct hearings on Bill 121. Our first presenter will be Mr Bert Reitter, president of Tandem Realty Administration. Good afternoon, sir. You will have 15 minutes to make your presentation, including time for questions, so if you wish to entertain some questions you need to leave some time. Will you introduce yourself for the purposes of Hansard.

Mr Reitter: My name is Bert Reitter and, as the Chairman indicated, I am the president of Tandem Realty Administration. We own and manage a number of apartment buildings and town house complexes within the city of Toronto and environs. I have been in the business since 1967. In other words, my experience predates rent review and rent control and I believe I am eminently qualified to speak in respect of the issues.

I felt there would be a number of reasons or methods in which this subject could be approached. One would be a minute, paragraph-by-paragraph study of the proposed Bill 121. First of all, I would not be able to do that in the time allotted to me and, second, I felt there were other people who would do that. I ask you to listen to me for the next 10 minutes because I will speak to you a little more about the philosophical implications of this legislation.

On July 2, 1991, three prominent members of the New Democratic Party—namely, Mrs Akande, Mr Marchese and Mr Silipo—convened a public meeting at Harbord Collegiate Institute. The announced purpose for this meeting was “to discuss the New Democrat government’s new rent control legislation.” Messrs Marchese and Silipo, along with some support staff, replied to a number of tenants’ questions, technical questions and “what happens if” questions.

What were the highlights of this meeting? Let me tell you. A speaker from the audience at one point suggested that housing was surely an inalienable right of all Canadians and should therefore not be for profit. To this, Messrs Silipo and Marchese nodded in agreement. Wait a moment, it gets a lot better.

A very small landlord who owns a triplex asked how he should make his mortgage payments when the interest rates rose from 8% to 11.5% and he, by virtue of this legislation, was not able to pass that increase on to anybody. He informed us that he would clearly have no choice but to go bankrupt. He was told to, “Get out of this business if you can’t afford it.” “Become a stockbroker,” yelled a gentleman who stood next in line to the microphone and who was known to be an employee not only of the Ministry of Housing but of its rent control branch. He yelled, “Become a stockbroker.”

This landlord had just told us that he used all his savings as down payment for this triplex which he will now likely lose. When he was told he should get out of this business and become a stockbroker, Messrs Silipo and

Marchese nodded sagely in agreement. If anybody thinks that is only the opinion of some individuals and surely not government policy, then let me enlighten you.

This meeting was attended by Mr Fred Gloger, who was introduced to us as a policy adviser to the Premier. Mr Gloger, at this point, did not jump up and say: “Wait a moment. This ‘housing is not for profit’ idea is not shared by the Premier or by the Premier’s office.” Quite to the contrary, he sat silently and thereby, I am certain, told us all that this is the policy of this government.

Consider for just a moment then the implications of this philosophy. Clearly it says housing is such a basic need of all humans that no one should make a profit out of such a need. The private sector must therefore be eliminated and the public sector must take over. Other people will tell you what the economic implications of that philosophy are. Economists, considerably better versed than I am in these matters, will tell you the disaster that this philosophy brings.

Take housing away from the free marketplace and soon society will no longer be able to afford the creation of new and better places for people to live. All of this economists will tell you. Let them tell you that privately produced rental housing is the cheapest housing available.

I am just a small landlord, so I am asking you this question: Once you have driven me out of this market, how long will it take before you look around for other areas that you consider “essential” products and that therefore must be controlled?

If housing is essential and an inalienable right and not for profit, then surely food is even more so. Then to stay faithful to this philosophy—and by God, the NDP will stay faithful—we cannot allow a farmer to grow the food for profit, nor must Loblaws or the corner 7 Eleven, run by Ma and Pa, do so for profit’s sake. Food, after all, is an inalienable right and must not be grown for profit.

The fact is, the farmer will not like to stay on the farm under these circumstances, so he must be forced to stay. Civil servants will run the grocery stores after those have been retroactively expropriated from their rightful owners—I know that you know what I mean when I say they have been retroactively expropriated from their rightful owners. Expropriated, by the way, without compensation.

After housing and food surely must come clothing and then transportation, all inalienable rights which ought to be provided to all without profit to anyone. Does this sound a little bit familiar? Does this just start to have a familiar ring? Does it not sound a lot like the bankrupt system that is now coming begging to the free world? I suggest to you it does.

You may well suggest that I am using hyperbole, that I am exaggerating, that the present government does not try to drive the private sector from the housing market, that indeed the NDP wishes to have a mixed, well-balanced economy. If this is what you believe, I feel sorry for you. You have obviously not done three important things.

1410

You did not listen to Mr Rae's explanation of how he would get public ownership of this province's rental apartment buildings, announcements he made prior to the election; you did not comprehend the immorality of Bill 4, and please note the word "immorality"; nor did you study the devastating impact of the proposed Bill 121 on the future of our apartment buildings.

I think it now behooves us to take a closer look at the salient points of Bill 121. I will only tell you the very fundamental, skeletal points are as follows:

Buildings over six units may increase rents without application by one half of the rent control index—which is sort of a word for the inflation factor—and may add 2% for minor capital expenditures. For major capital expenditures and extraordinary cost increases, they may add an additional 3%, if that is necessary. This 3%, however, seems obtainable only if the landlord can prove he has indeed spent the previously allowed 2%.

Let me, together with you now, look at an example. There is an apartment building of 150 suites. It generates \$90,000 per month, is 20 years old and requires the following major capital improvements—a new roof for \$150,000; plumbing lines for \$100,000, galvanized replaced with copper; and the garage slab, about which we have all heard so much in the last months, for \$250,000—for a total of \$500,000. The lifespan—let us assume there will be no changes; there might well be—will be 15 years, 20 years and 10 years respectively. I am going from table 1 of Bill 51 now.

The interest rate granted will be 11.5%. These funds borrowed from a lender under the same circumstances will require \$6,252 a month to repay, or 6.95% of the rent roll of this building we have just illustrated. Under part VI of the Residential Rent Regulation Act, which is now largely suspended, this landlord, upon application to the minister, would have obtained 11.35% increases in his basic rent which would have included the 6.95%, or \$75,060, for this previously spoken of capital expenditure.

With that \$75,000 built into the rent structure of this building, he would have been able to pay back the banker or whomever he has borrowed that money from at 11.5%, the building would have had a new roof and new plumbing lines, the tenants would have been more comfortable in that same building and the landlord would not have looked at bankruptcy. He would have been able to repay the loan of the \$500,000 in the same period that was given to him as an amortization period in this legislation.

The new legislation which we are now looking at changes this entire issue completely so that an increase of only 7.6% can be obtained instead of the earlier mentioned 11.35%, of which only \$32,400 is for the capital expenditures. We are actually saying to this landlord, "It is all right for you to obligate yourself to pay back \$75,000, but we will allow to flow into your income stream only \$32,000." The landlord will have an annual deficiency of \$42,660.

Please let me draw your attention very briefly to schedule A, which is attached in the submission that is before you. I will not bore you with the details. I will only tell you

that if you wish to have anything explained on that schedule A, I will be more than happy to do so.

Let me just tell you one thing. Once this landlord has reached year 2000 with his building, he will have lost \$854,000—a hell of a way to celebrate the turn of the century; \$854,000 will have come out when compared to what he rightfully should have been able to expect.

Since not many landlords can be expected to do so, we of course have to have legislation in force which has coercion and penalties as its adjunct. This legislation provides for the director of rent control to appoint rent control inspectors who shall have the powers of entry, search and seizure. Think about it. Even the drug squad needs to have a judge's warrant before it can do that. Under this legislation, that does not seem to be necessary.

Let me just very briefly tell you one other thing. The New Democratic Party decided that two thirds of inflation was too much to pass into the guideline because surely operating expenses amount to only half of a building's income and therefore it is a sufficiency to allow half of the inflation factor. What was not considered was obviously this. A landlord whose building's rent is very low and who should therefore surely be a good friend of this government because he is a good friend of his tenants will be the one whose operating expenses inevitably will be more than 50% of his income, because that percentage is simply an expression of the relationship between income and operating expenses, and the lower his rents, the quicker he will be driven from the marketplace. This is the madness of this proposed legislation.

I suspect that my closing sentence will fall on totally deaf ears. Ladies and gentlemen of this House, do not pass this law. Do not do that to your children.

The Vice-Chair: We have less than a minute and it is the Conservatives' turn.

Mr Turnbull: Mr Reitter, just because of the pressure of time, would it be reasonable to say that this proposed law totally disregards the difference between buildings which already have had a lot of renovations and bypassed those rent increases and those which have not had any renovations because they were not quite at that point?

Mr Reitter: Absolutely. It treats every building as if it came out with a cookie cutter, and buildings do not come out with a cookie cutter.

Mr Turnbull: So people who have already had the renovations can probably make it within this legislation.

Mr Reitter: They can make it for another five years and then they will go down the pike.

Mr Turnbull: But the others cannot.

Mr Reitter: I will go down the pike the day after tomorrow. They will go down the pike five years from now.

The Vice-Chair: Unfortunately, the time has expired.

The next presentation will be from Jack Pennings, Persons United for Self-Help in Ontario.

Mr Tilson: Mr Chair, on a point of order: The subcommittee met at the lunch break with respect to the first of the two notices of motion I discussed. Could you advise

me when it would be an appropriate time to raise that issue for the committee?

The Vice-Chair: I would prefer that it be raised following the hearing of the witnesses so that we do not inconvenience people, but there may be some breaks in the schedule, and if that occurs, it may be better that we deal with it then.

Is Mr Pennings here? Is there anyone representing Persons United for Self-Help here this afternoon? In that case, Mr Tilson, we could consider your motion right now.

Mr Tilson: Mr Chair, I would like to put forward the motion, which the subcommittee has agreed on in principle, subject to the committee's approval, and it is a motion that the members of the standing committee on general government invite a representative from the financial community to attend the hearings on Bill 121 and to offer comments on the proposed rent control legislation.

I put that motion forward. The only issue the subcommittee did not discuss is whether there would be some sort of consensus of the subcommittee that would suggest an individual or what. We did not discuss that process.

1420

The Vice-Chair: Mr Tilson has made a motion. Do you wish to speak to it?

Mr Tilson: If you ever give me a chance like that, Mr Chair, I would never back off that.

The Vice-Chair: Remember, we have 15 minutes.

Mr Tilson: I will be my usual brief self. We are continuing to hear comments, specifically from the landlord and contractor delegations, that they are having more and more difficulty getting funding to complete financial expenditures because of the implications of Bill 121. Accordingly, I believe there do not appear to be any independent financial individuals, whether it be from banks, trust companies or whatever, who have this knowledge, scheduled to come and address the committee on the implications of Bill 121. That is the intent of the motion.

Ms Harrington: I understand it was agreed at the subcommittee that this will be proposed if we have any problems.

The Vice-Chair: That is my understanding.

Mr Duignan: With an understanding that we have a person who is mutually agreeable.

Mr Abel: I support Mr Tilson's motion, but I also think it is important that we have an opportunity to mutually agree on who this person will be. I think we have an understanding of that nature.

Mr Tilson: Agreed.

The Vice-Chair: I was at the subcommittee meeting. I think we have agreement.

Motion agreed to.

Ms Harrington: Mr Chair, would it be possible that we would be able to respond equally, as well as the Conservative Party, to Mr Reitter? I was not sure what the rules were when you said there was one minute left. How do you pick which party will respond?

The Vice-Chair: We do the parties in rotation. If you remember, Mr Mammoliti spoke to the last presenter and no one else had an opportunity because of time constraints. The Chair tries to be as fair as possible, but given the time constraints, we are in a difficult position.

Ms Harrington: I understand.

BOARD OF TRADE OF METROPOLITAN TORONTO

The Vice-Chair: The Board of Trade of Metropolitan Toronto: Are the representatives here? Good. If you would come to the table and identify yourselves for the purposes of Hansard, we will have 15 minutes for your presentation. If you would like to leave some time so that the committee may question you, that would be appreciated.

Mr Cline: Good afternoon, ladies and gentlemen. My name is Barry Cline and I am speaking today on behalf of the Board of Trade of Metropolitan Toronto. The board is North America's largest community chamber of commerce/board of trade, with some 15,000 members.

We have commented on rent control for many years. While not an organization that has a direct stake in rent controls, we do represent many people who are either landlords and/or tenants. I might add on a personal note that I am a small landlord who is also a tenant. In addition, as a voice of business, the board of trade is always concerned with the investment climate in this province and the real estate sector.

We have participated in the process leading to Bill 121. We forwarded written comments on Bill 4 when it was before this committee, as well as commenting on the discussion paper which preceded the new legislation. In addition, in early July of this year the board met with the former Minister of Housing to discuss a number of issues, including the new rent control legislation.

I am aware of the time frame allowed us, and therefore I will focus on the major components of the legislation which we feel are grossly unfair to the landlord and hence lead to a lack of rental housing investment and construction in the province. Following my comments, I would be pleased to answer any questions you might have.

1. Limit on capital expenses: This is perhaps the greatest problem with Bill 121. In order to qualify for the additional 3% allowed for capital costs, a landlord will have to show that he/she is already spending 2% of the allowed guideline on capital costs. Not only does this eliminate any profit for landlords, but the proposed guideline is clearly not adequate for major repairs and renovations to Ontario's aging rental stock. Landlords/investors will be allowed 6% for additional capital costs only if they have spent 10%. Such a cost cannot cover major capital expenditures such as parking garages.

The board would propose that the legislation be more flexible in this area by either extending the amount of time allowed to recover costs beyond two years or by increasing the percentage allowed, which will still have to go before rent review.

2. Limit for extraordinary expenses: The bill in its present form will limit the number of extraordinary costs. These costs, the board believes, should be separate from the guideline allowed for capital costs. We have all recently heard of

possible double-digit increases in Ontario Hydro rates over the next three to four years. In addition, many municipalities are seriously considering higher water rates to promote conservation. Surely these additional costs should be passed along to tenants.

In addition, the board believes that other costs beyond a landlord's control, notably, insurance rates and mortgage rates, must be dealt with in the same manner. A landlord should not be forced to cover possible increases in a three- or five-year mortgage from, say, 11% to 13% or 15%. Similarly, in the interests of fairness, there should be a mechanism in the legislation to ensure lower costs for tenants associated with reduced mortgage or interest rates.

3. Rent reductions: Of great concern to potential investors and business in general is the proposed provision in the legislation that a single tenant can, for inadequate maintenance, seek rollbacks in rents for an entire complex. All increases would be stayed until the issue is decided, creating an air of uncertainty in terms of capital flow and a landlord's ability to finance ongoing maintenance. How can maintenance and capital projects be completed when increases are not guaranteed? We do not even know what "inadequate maintenance" means, because the guidelines accompanying the legislation have not even been published.

4. Message sent to the business community: The legislation in its present form does not convey the impression that owners of real estate in Ontario will be permitted a fair rate of return on their investment, nor does it convey a positive message to any potential investors that they can expect any reliability or certainty in the rules governing investment decisions. In this vein, the present legislation is unfair and will lead to even greater rental housing stock shortages.

I would like to thank you for your time and would welcome any questions you might have.

Ms Poole: I am still formulating my question. I have one, but can we pass to the right?

The Vice-Chair: We can move to the government caucus then.

Mr Duignan: In the whole area of capital expenditures, do you support some sort of reserve fund for new buildings under Bill 121?

Mr Murphy: In our response to the discussion paper that the minister put out, and when we met with the minister he asked us about that, we think it is a good initiative for new buildings, obviously, that—

The Vice-Chair: Excuse me, sir, but could you introduce yourself?

Mr Murphy: I am Jim Murphy. I am the staff person with the board, manager of the urban affairs department.

In terms of a capital cost reserve fund for older buildings—I think over 60% is the figure that has been used for the existing rental stock in the province is that over 20 years—and catching up to that or establishing some sort of a reserve fund to cover a lot of maintenance costs or capital costs, which are going to come in the next couple of years just through use and aging, it would be difficult. We just were not sure in terms of the mechanism that might be

used to implement such a thing to catch up, since those costs may be happening relatively soon. But for newer buildings we thought it was something that should be looked at.

Mr Duignan: Would you support something along the line of a capital insurance fund, partially funded by tenants and, say, government, to deal with older buildings?

Mr Murphy: In our discussion paper to the minister, we talked about such an insurance fund. We thought it should be funded mostly by tenants, obviously, because they were going to accrue the benefits of it, but something like that should be looked at. We thought it was something that was not included in the discussion paper, for example, and we did not have the expertise to comment on whether it was the appropriate way of doing it. But obviously funding capital costs was the major issue at hand here. Certainly looking at how you ensure that will happen and trying to find some way or mechanism—being creative—would be helpful.

1430

Mr Mammoliti: You said the tenants are the ones who would benefit. Why do you say that? Would the price of the apartment not go up with any improvement? Would the landlord not benefit as well. Why do you say just the tenants?

Mr Murphy: Barry might want to answer that, but even under the existing legislation I think the government is saying that, for the 3% which is the guideline it is allowing, tenants should fund that. This is a capital cost, so I think that is kind of an accepted way of doing that.

Mr Mammoliti: Do you not think the landlords would benefit from it as well?

Mr Murphy: Sure, absolutely, but so would tenants, obviously, in terms of the conditions they are living in.

Mr Mammoliti: Your statement was just tenants and I wanted to clarify that. I do not believe it is just the tenants who would benefit; it would be reciprocal.

Mr Murphy: Obviously a tenant and a landlord will benefit, whether it is a new parking garage or whatever type of capital cost.

Mr Mammoliti: Of course the landlord will make a profit off it.

Ms Harrington: One of your main points, I thought, was that there should be a separation between the capital costs and the extraordinary operating costs. Are you saying you would prefer that a landlord be able to apply for both? I just want to reiterate that the intention of this bill is protection for tenants, because put yourself in that position: If your rent goes up 10%, 15% or 30% it means a whole change in your lifestyle. You have to cut back on everything else in order to fund it or else move out. That is the choice.

As people who own property, I would think you would be concerned about the continuity of your tenants and the stability of their lives and the whole community really. That is the intent of the bill: protection against huge increases that change people's lives. What we are hoping is that the landlords can plan ahead for any necessary capital

repairs so that there are not these huge increases, that it be a more gradual type of thing. That was just to clarify that is the intent and we want to work with landlords to do that.

Mr Murphy: Two things on that point: One of them might be that what is allowed in the guideline might not be enough to cover projected increases in mortgage rates. I do not think anybody knows where they may head in two or three or five years. If there is an increase, I think it is unfair that a landlord should cover those costs. Similarly, the other costs: Home owners have to cover increases in property taxes or increases in water rates or whatever. I think similar costs should not be sheltered from tenants but should be passed along; these costs that are inevitable.

Mr Turnbull: Basically I want you to tell the NDP why an investor invests in anything, be it property or anything. I know this sounds a very simplistic question, but it is deliberately so.

Mr Cline: Why does he invest? One word—profit.

Mr Turnbull: Yes. Do you view profit as something disgusting and something to be discouraged?

Mr Cline: Not at all.

Mr Turnbull: No. I suspected you would answer that way. The stated goal of the government, now that they have rejigged the ministries, is to have the co-operation of private business. Can you imagine that private businesses are going to want to stay in anything that is going to drive them into the ground and make them go bankrupt?

Mr Cline: If there is no profit margin or if there is going to be a loss, then obviously they are not going to invest. Without the investment there is no housing stock.

Mr Turnbull: The problem as I see it—I would like you to comment on this—is we have two sets of investments and gradations between the two. You have mature investments, where somebody has owned it for a long time and maybe they have done a lot of renovations and probably they have the rents up to a degree that it is a reasonably profitable venture. Then you have other buildings that may not have been in the ownership for very long and may need a lot of renovations and their rents tend to be low.

It seems to me that if you want to look at it simplistically, you could say this legislation is certainly not going to really harm in a significant way large landlords who have a large portfolio. They can weather the storm. They may not make as much profit, but they can weather the storm. But the small landlords, particularly the ones who have not been in the business for very long or those who have older buildings, are now going to be driven out of the business because of these kinds of regulations. The very people the NDP would say they want to encourage, the small business people, are going to be driven into bankruptcy. Can you comment on this?

Mr Cline: Absolutely. I can speak on behalf of the board or I can speak on my own, being a small landlord. I am also a tenant. I rent an apartment in the city, but I am also a small landlord, and the majority of landlords in this province are small landlords. They have played by the rules. They have not stuck it to anybody. Now all of a sudden down the road they have to make some repairs or

mortgage rates go up. It may cost them an extra \$50 a month for a mortgage or for taxes but that really eats into their costs. Maybe they are just making do, just getting by. With this type of thing they will either have to sell it, get out of business or not make any repairs at all, and unfortunately you know what that means to the residents.

Mr Turnbull: So this legislation is not going to be a terrible hardship to the people who get rents of \$1,200 a month; it may not be a hardship at all. Whereas if they have rents of \$100 a month, and there are such buildings in this province, that is going to be a terrible hardship. Would your advice to the government then be to have more sensitivity in terms of the background of the building in terms of the age, the condition and the profitability to the landlord and the amount of rent?

Mr Cline: I would agree 100%.

Ms Poole: Thank you for your presentation today. I want to ask you about the appendix to your brief, which was your letter to David Cooke on June 27, 1991, about this legislation. It talked about the record vacancy levels in the GTA and you said the statistics also lend credence to the board's belief that certain exemptions to the rent control legislation that would encourage construction should be granted. But then you go on to be fairly critical of the one attempt the government has made to encourage new construction. You have said the measure to exempt new apartment units for five years will do nothing to encourage more apartment construction by the private sector. This is based on the well-founded fear of developers both large and small that this or another future government will merely place rent controls on these units. Do you have any ideas for exemptions to the rent control legislation that you believe would encourage construction?

Mr Murphy: In our response to the discussion paper we talked about an exemption for luxury units, to use the high end as something that might encourage construction. We gave a figure we referred to earlier in terms of somebody who pays \$1,200 or whatever the cost might be. The minister in our meeting said that after five years these units are going to come under rent control. He said there was no hope this would be extended or anything like that to guarantee certainty to investors or developers.

We were looking at two things: First, in terms of a luxury unit exemption for people who may be able to afford to pay higher costs in any event and are being protected by the existing legislation, the existing rent controls; and second, in terms of trying to get new development in gear. You do not do it by just staying in a time frame of five years, which really ignores the existing economic situation in the province, where there are high vacancy rates. You might want to ask landlords when you travel across the province about problems they may have in terms of renting their units. That is another issue that has come to the fore because of the times.

Ms Poole: I appreciate those comments. Have you also considered having some sort of exemption based on vacancy rate? Obviously if the vacancy rate is 6% in a particular area of the province, the market will determine what the rents are and the rent should be fairly low and

much more affordable than when it is a very tight market. Have you done any research or have you any comments on that?

Mr Murphy: We have not commented on that in the past, although with the existing situation it might be something that would deserve further study and further comment. Clearly it is a matter of supply and demand. If the demand is not there and the supply outstrips it, then obviously you have a problem in terms of filling it. We have always said—people or economists or the board of trade, which has opposed rent controls in the past—that if you remove these, then maybe there will be a role for the private sector, but in terms of vacancy rates, that is something we have not discussed.

1440

INVESTORS PROPERTY SERVICES

The Vice-Chair: The next presentation will be by Investors Property Services, Brian Fulcher. You have been here for a few minutes so you have seen the procedure we follow. You have 15 minutes to make your presentation and have questions from the members. You can allocate that as you will, but the members always appreciate the opportunity for questions.

Mr Fulcher: My name is Brian Fulcher. I am president of Investors Property Services. We are a small property management company. We manage mainly small residential properties. Most of them are houses and such small buildings as two, three and fourplexes. Due to the time limit of 15 minutes here, this presentation will start with and be limited to the sections most damaging to the landlords of Ontario and the housing industry in general.

Subsection 21(2), limits on capital expenditures, and sections 14 through 18, which do not allow for an extraordinary increase in costs due to remortgaging: Approximately 10 years ago, during the 1981-82 downturn in the economy and real estate market, I left the chemical industry and became a full-time landlord with the goal of developing small properties for long-term income. I already owned and lived in a fourplex and immediately purchased a large, run-down, 13-room boarding house. Following approval by the committee of adjustment, and obtaining the building permit, I worked a year and a half developing this property into a quality fourplex. I have since purchased two small houses and one commercial building with a main floor storefront and three residential units.

I spend eight to 10 hours per week managing and maintaining these buildings, but after 10 years they provide no net income. My income is provided through managing and maintaining residential and commercial buildings for other landlords.

The purchase and development of these properties has been dependent upon remortgaging of the properties after the work was completed. Remortgaging of these properties was dependent upon increasing rent significantly. The cost of development of these properties was 30% to 50% of the purchase price. Limiting rent increases to 3% or 3% for two years does not even begin to finance this type of work, especially when the rents of run-down buildings are very low, and 3% of very low is still very low.

Bill 121 must apply in a just and fair way to all buildings; otherwise it is not good legislation. As it is currently written, it fails to do so with regard to subsection 21(2).

Subsection 22(2), capital carry forward: This section makes an arbitrary distinction between buildings based upon number of units. This is not fair, just or even logical. The distinction must be made based upon the need of buildings to be improved and the capital costs of the improvements.

Clause 38(2)(d), 30 days to comply with work orders: A lot of work has to do with work orders with property owners. Serious work orders cannot be cleared in 30 days. Times easily go 60 days or more for good reasons of economy and weather, just to mention two reasons. A work order requiring an application under the Rental Housing Protection Act can take more than eight months just to get proper permits. Similar previous legislation resulted in an enormous number of notices being sent out in duplication of city work orders and did not result in any marked improvement in the time required to clear the work orders.

Subsection 16(1), transition, capital expenditure: If this is an attempt to remove the retroactivity of Bill 4, then it fails to do so. Work done through the retroactive period was done on the basis of legislation at that time, allowing for full recovery over time of substantial capital costs. In this respect Bill 121 is still retroactive in allowing only a 3% increase in rent for capital costs. It also delays further capital work until the landlord can qualify for another 3% increase.

In general, Bill 121 affects the smallest landlords in the most severe ways. It is too complex and lengthy for the average small landlord to comprehend, yet if a landlord neglects to follow its exacting requirements—for example, subsections 7(1) and 7(2), to use the correct rent increase forms at least 90 days prior to a rent increase date—he can be severely financially punished in court by having a clever tenant apply under the same section, subsection 7(3), for a return of rent increases. This has happened in court very often.

Bill 121 should not be imposed upon small landlords. Their rent is substantially controlled by the rent allowed in medium and larger buildings and they should be allowed to operate individually through personal negotiation with their tenants.

Mr Tilson: You are quite right. The bureaucracy that is being created by this legislation is certainly accelerating the previous bureaucracy. With a twinkle in my eye, it will probably give you more business to do as a business consultant because only people like you will know how to fill out the forms. I am simply amazed when I start hearing the staff of the Ministry of Housing explaining what one is going to have to go through. It is even more complicated than before. Perhaps you could comment on the whole subject of bureaucracy and how it will probably create a whole new class of people who will be able to simply spend their time filling out forms for small landlords and even tenants.

Mr Fulcher: The small landlord does not understand what is happening now. I do not believe the majority of

tenants understand either. You are right that there is a bureaucracy of people outside the government who have gone into business in just understanding what the government is trying to do. It is very counterproductive and it makes very little sense.

Mr Tilson: Certain rent increases are guaranteed by Bill 121.

Mr Fulcher: They are just not enough.

Mr Tilson: I know that. That is not what my question is, because there may be market forces in particular areas of the province where there is no need for rent increases, or because of the economy in particular areas and because of the condition of a particular building, it may even be subject to rent decreases, but no landlord is going to have a rent decrease because of where that could put him down the line.

I do not know whether you agree with that. In other words, I suppose the fairness that landlords in the past may have wanted to exhibit towards tenants—if the financial ability were there and they could still make a reasonable profit because of the free market, they may have reduced their rent. Now it would not pay them to reduce their rent. Do you have any thoughts on that?

Mr Fulcher: Actually, today there are a lot of landlords in the city of Toronto being forced to reduce their rents; otherwise they are going to have a vacancy.

Mr Tilson: That is right.

Mr Fulcher: In effect, this legislation is of no value to those landlords. It is not helping them at all. Legislation like this has put them in this position of having vacancies and having to reduce rents.

1450

Mr Tilson: With rent controls in other jurisdictions, and I am thinking specifically of Sweden and some European countries, it simply pays for certain middle-class and certain wealthy tenants to stay in their rental accommodation because rent control freezes them at low rents. It does not pay them to go out and buy a home. I am telling you that is the fact.

Mr Fulcher: It is true, there are lots of tenants in this city—

Mr Tilson: My question to you, in your experience as a management consultant, is whether you have noticed that trend starting to occur in Ontario and specifically in Toronto, which I gather is your bailiwick.

Mr Fulcher: I have had several tenants buy a house this year, but it is a major decision for them because they have to decide to leave the comfort of rent controls and go into the housing market. There is no incentive for people to go out and buy their own home if they are protected so well by rent controls.

Mr Tilson: If there was one major amendment that you would recommend—obviously from my perspective there is a whole slew of amendments—this government to consider, other than withdrawing the legislation, which I have suggested but it was not received very well, what would that be?

Mr Fulcher: You cannot expect to make one bill apply to all buildings everywhere in the province. It does not make sense. You cannot do that. It is just not logical. They have to somehow treat buildings separately and individually.

Ms Poole: You have raised a concern I have with the act in relation to work orders. While I am in agreement that something should be done to enforce work orders where they are being ignored by a landlord, particularly where they jeopardize the health or safety of the tenants, I am concerned with the 30-day provision and the fact that they do not relate just to substantive work orders, and second that they do not consider extenuating circumstances.

You have named one here which I want you to elaborate on, but another that comes to mind is if, for instance, a building inspector goes in in December and says, "The exterior wall work is crumbling and needs to be replaced," that work cannot really be done, or even be commenced, probably until about April. Meanwhile, the work order is on, it goes into non-compliance, the landlord has a rent penalty put on and yet has no recourse. A second example is an underground parking garage which takes many months and in some instances years.

A third example happened in my own riding just recently where we had a call from a tenant who said: "The landlord hasn't had the air-conditioning on all week and it is incredibly hot, and he's just being nasty and mean. Do something about it." So we phoned the landlord to see what the problem was. They had ordered a part, and for that particular machine the only part was in the United States, and it was going to take four weeks. They were doing all the rest of the work, but they had to wait for that part. There are extenuating circumstances like that.

You have mentioned one other one: the Rental Housing Protection Act. Can you give the committee an example of where you need a permit under the RHPA and it would be a lengthy process that would apply and you would be caught with this particular provision?

Mr Fulcher: I will give you an actual case. I have a client, normal people, who went out and bought a house about two years ago. They thought they were buying a house with four rental units. They found out very shortly afterwards, when the building inspector came by to renew the rooming house licence, that it was supposed to be a rooming house. The previous owner appears to have converted it to four units. This not only contravenes the zoning in the area but it requires approval under the Rental Housing Protection Act to convert this property to a four-unit dwelling. Actually, the Rental Housing Protection Act does not allow a conversion from eight units to four units. It is mired in bureaucracy at the moment, and it has been for eight months since we put our application in. It is stopped right now.

Ms Poole: So the city has a work order on it.

Mr Fulcher: The city has a work order on it. It is an order to comply. We have agreed with the inspector that we will occupy only three units and the fourth unit will not be occupied. It has been vacant for over eight months. The

landlord is losing approximately \$600 a month on it. We are making virtually no progress on the situation.

Ms Harrington: The government, I think you would agree, has recognized in this piece of legislation something that has not been put forward before: that is, the difference between small landlords and their operating costs and their way of operating, and large landlords, the big corporations. I think this is certainly a step forward in trying to deal with people as human beings and their particular needs. I hope you would agree that this is a first step.

The other thing you mentioned is communicating with your tenants. You mentioned the problem of work orders and some of the horror stories they may lead to. You can concoct all kinds of things that might happen, but I think one of your points is important and that is that—also what Ms Poole was talking about with regard to the air-conditioning problem—if landlords and tenants could communicate what is happening, there would not be a problem with work orders. The work would be done. The reason we have had to come down with this, trying to make sure that maintenance is there and that work orders are enforced, is because landlords in fact have refused to do the work. Tenants have been taken advantage of in the past.

If you had your particular amendments that you mentioned in writing that you could submit to the committee, would you do that?

Mr Fulcher: I do not have any amendments in writing.

Ms Harrington: You did mention certain parts of the act that you would like looked at.

Ms Poole: I just asked the clerk. He had only one copy and he passed it to me. Perhaps we can make copies.

Ms Harrington: You do have something. Okay.

Mr Duignan: What would you consider the most important amendment to this piece of legislation?

Mr Fulcher: As I said previously, the legislation fails to deal with buildings on an individual basis. This means that no matter where they are in the province, whether it be in this city or in Sudbury or wherever, no matter what condition they are in now or how they got in that condition, how old they are or how much money they need to be repaired and brought up to date, the bill does not distinguish at all beyond the 3% guideline, and 3% is simply not enough money.

Mr Duignan: So you would like us to have a look at starting to distinguish between buildings and also possibly having a look at variations between Metro Toronto and various other parts of the province.

Mr Fulcher: If I had my preference, you would not look at anything. You would let landlords go ahead and work with their tenants like they always did. I do not see that we would have a major problem. I think it should be handled with an entirely different approach. Landlords should not be made to be social service agencies. It is not our purpose. We provide housing.

Ms Harrington: The market needs regulation like anything else.

Mr Duignan: Unfortunately, because of what has happened in the past—the previous Tory administration,

the reason it brought in rent control—the fact is that we do not live in a perfect world.

The Vice-Chair: That completes the time allotted for this presentation. The committee happens to be running unusually ahead of schedule.

1500

Mr Tilson: Can I ask one question of the staff as a result of the last presentation? The subject of rooming houses came up. My understanding is that a three-storey rooming house with six rooms would, under this legislation, be considered a large building. If that assumption is correct, it will receive a higher guideline than a six-unit apartment building would receive. My question is whether rooming houses should even be in this legislation because of the definition, as I understand it from the presentation, that a three-storey rooming house with six rooms would be classified as a large building, as opposed to a three-storey apartment with larger units, which would be considered a small building.

The Vice-Chair: Could a representative of the ministry answer Mr Tilson's concern?

Mr Harcourt: Scott Harcourt; I am with the housing policy branch. Just to clarify, a six-unit building, whether it be in a rooming house or a standard apartment building, would be considered a small building. The differentiation falls between six and seven units, whether it applies to a rooming house or an apartment building.

Mr Tilson: Let's use the figure of seven units.

Mr Harcourt: If it is a seven-unit building, where there is a regular apartment building it is a large building. If it is seven units in a rooming house, it will be a large building as well.

Mr Tilson: My understanding would be that there are more units in a rooming house than there would be in an apartment building and that the basis as to what is a large building and what is a small building is based on units.

Mr Harcourt: Correct.

Mr Tilson: I am not familiar with where the grey area is, but because of that, it seems to me that as an apartment building it is a building which would be classified as a small building, whereas because of the smaller units of a rooming house, it would be classified as a large building.

Mr Harcourt: You are correct. Because in a rooming house the rooms tend to be smaller, it is quite feasible that a building of the same size could have a different classification.

Mr Tilson: Is there a way of dealing with that? There is obviously a certain unfairness to those people who own rooming houses as opposed to apartment buildings.

Mr Harcourt: Sure. I guess any time you make a distinction you have to have some objective set of criteria you can use. We have used the differentiation between six and seven at the present time. You could use it by square footage, for example. The number of units is probably easier simply because it is easier to differentiate between the number of units than it is on a square footage basis.

Mr Tilson: Because of that, has the ministry staff considered recommending to the government that perhaps

rooming houses should not be in this legislation? Clearly that seems to be unfair, to me at least, to the people who are in rooming houses because they are going to be treated differently. If you were in an apartment building you would be treated differently.

Mr Harcourt: I am not sure what the question is. You are saying you are differentiating between large and small buildings on the one hand and then on the other hand you are saying that rooming houses should not even be included in the legislation.

Mr Tilson: I was following along the line of questioning of Ms Harrington when we started talking about large and small, which got me thinking about the large and small distinction.

Mr Harcourt: You are proposing that all rooming houses should fall in the category of small buildings. Is that what you are saying?

Mr Tilson: I do not even know whether I want to say that, because conceivably you could have an extra large rooming house. I am saying, should rooming houses even be part of this legislation? Should you have separate legislation for rooming houses?

Mr Harcourt: The purpose of including rooming houses in the legislation is so that they have the same protection as other tenants who are in regular apartment buildings.

Mr Tilson: That may be, but they are going to be treated differently because of your definition of what a large and small building is. The rooming house that should normally be a small building will be classified as a large building in the definition—

Mr Harcourt: Sorry; I do not see your reasoning.

Mr Tilson: —because the percentage increases allowed for small buildings are different from those for large buildings.

Mr Harcourt: So it is feasible that a fairly small building will be classified as a large building as we have defined it, and that it will have a slightly higher guideline increase.

Mr Tilson: That is my point. I guess the question I would like the staff to go away and consider is whether they would be prepared to recommend to the committee whether rooming houses should be taken out of the legislation, or if not that, whether there should be some sort of amendment made to solve that discrepancy.

Mr Harcourt: Okay. Your point is noted.

The Vice-Chair: Before you go, if the Chair might be permitted one question on a matter of clarification, I think there is some confusion. I, at least, have heard, or thought I heard some people making the distinction that a small building is owned by small landlords and a large building is owned by large landlords. I do not think that is a necessarily fair assumption, and from what I have gathered so far, that has nothing to do with the rationale of this legislation, that the reason the government is differentiating between the two is the different costs involved with a small building versus a big one, rather than who owns it.

Mr Harcourt: Certainly there is a tendency for small landlords to own small buildings, but that is not always the case. There are some small landlords who own one larger building and lots of large landlords who own small buildings, but there is a tendency. You can understand that it is very difficult to distinguish between large and small landlords because of the related groups of partners. They tend to be related by corporate structure, etc. It is easier to do the breakdown on the basis of size of building than on the basis of size of landlord.

The Vice-Chair: Yes. The ministry has put forward this proposal and the rationale is based on the size of the building, not who owns the building.

Mr Harcourt: Correct; size of the building, not size of the landlord.

The Vice-Chair: It does not matter whether I and 25 of my friends own a big building, or whether I am a huge corporation and own a six-unit. That is a red herring.

Ms Poole: While we have the ministry here, I had made three requests this morning for information and I have one additional one. This morning the Concrete Restoration Association of Ontario talked about the period from June 6 to the proclamation of the bill and the fact that Bill 121 is silent as to what happens during that period. Could we have a confirmation from the ministry, particularly relating to capital expenditures, of what is going to happen in that period and whether it is necessary to specifically outline this in the bill itself? Your legal department may be able to provide this.

Mr Harcourt: That is one thing we have been looking at. Certainly the intention is to allow for capital expenditures which have been completed since June 6 to be included under the Rent Control Act. If you would like written confirmation of this, we can provide that.

Ms Poole: Yes, and just a legal opinion as to whether it is necessary to include it in the act, because I think it is making the Concrete Restoration Association of Ontario extremely nervous. They are saying they cannot get work because landlords will not commit. That assurance would probably be very helpful.

The Vice-Chair: Mr Duignan, did you have a question?

Mr Duignan: Not on this point, but on another item.

The Vice-Chair: We have a few minutes here. The next presenter is not scheduled until 3:15.

Mr Duignan: Is there some way we could speed up getting a copy of the brief or presentation being made by the witnesses, especially the last one? I would have liked it prior to asking the questions. For example, I was wondering whether occasionally we could ask the next witnesses as they come in to present their briefs to the clerk so that we can begin the process of getting them photocopied.

The Vice-Chair: Mr Duignan, I am informed that we are prepared for the next two presentations.

Mr Duignan: Oh, good.

The Vice-Chair: No, for two future ones, not necessarily the next two. The clerks do their best in terms of getting them—

Mr Duignan: I appreciate it; I know that.

The Vice-Chair: One of the disadvantages of the committee proceeding a little in advance of schedule is that sometimes the committee therefore does not have the material to copy in a timely fashion. But you are right; it is very good for the members to have a copy so they can follow along.

Ms Poole: I just wanted to comment in defence of the clerk, that he had just received it. I was trying to refer back to what the gentleman had said and I asked him if he had a written presentation and he gave it to me to refer to. Otherwise I am sure the clerk would have had it copied sooner.

Mr Duignan: I am not blaming the clerk or anybody.

Ms Poole: We were caught in transition.

Mr Duignan: I was just wondering if there is a way we could get them if we ask them as they come in the door if they are here a half-hour earlier or whatever the case is.

1510

800 RICHMOND TENANTS ASSOCIATION

The Vice-Chair: We will move on to our next presenter, the 800 Richmond Tenants Association, Ralph Rozema, chair. Good afternoon, sir. Do you have a brief by any chance?

Mr Rozema: No, I do not have a brief prepared for distribution. I am sorry. This is not one of my full-time jobs.

The Vice-Chair: As you know, you have 15 minutes for your presentation, and it would be nice if you left an opportunity for members to question you. You should introduce yourself for the purposes of Hansard.

Mr Rozema: My name is Ralph Rozema. I represent the 800 Richmond Street Tenants Association. Although I have read the outline of Bill 121, I am concerned only with those parts that have had an effect on us as tenants at 800 Richmond Street West. These are one increase per year; maintenance; and work orders and fines. There is a real need for strong and effective legislation that works for tenants.

Bill 121 will give annual increases and capital cost increases to tenants. The present system of review has appeals and delays that have caused a great deal of hardship for many of our tenants. One of the parts of Bill 121 is to have one increase per year, and only one increase. The previous rent review process allowed appeals to extend, in our case, one year to a year and a half after the calendar year in question was over. The result was that in one year the following three legal increases were given the tenants: first, the annual inflationary increase; second, from an application made two years earlier; and third, from an increase from an application made one year previously.

The landlord then proceeded to collect his legal rent, including phase-ins as they became due. When compounded, these increases, when compared to the rent being charged at the beginning of the year, result in an effective increase of 23% for the entire year. The 800 Richmond Street tenants were then immediately liable for the full amount of arrears. Tenants were asked to pay hundreds or

thousands of dollars in rent in effect by surprise. We do not know when these decisions are going to come down.

This happened twice in our case. The last time the landlord simply taped form 4 notices of termination on the door of each tenant in the building. Bill 121 would have prevented the havoc this created. To give committee members an idea of what I mean by havoc, I should say our building is a high-rise of 228 units with low-income tenants. Many tenants, if not most, fall into groups of those on fixed incomes, low incomes, disability or social assistance. As well, a large number are new Canadians with a working knowledge of only spoken English.

If I could present this committee with the reactions to these rent increases I have witnessed, I am sure you would be strongly motivated to protect us: the fist-shaking anger, the bitter words and the tearful shame of those unable to raise money for yet another increase. Each of the last two increases resulted in each tenant having to come up with approximately one month's extra rent, when you calculate it or compare it to the rent. Perhaps each committee member would take a moment to apply this to his or her own finances. Could you, in the last year, have paid out twice an extra month's rent or a mortgage payment just like that?

While it is not necessary for landlords to do so today, often they give leases, or they used to before, that assure renters of a year's tenancy at a fixed rate.

I do not know whether I am really conveying this to the committee, but I would like to just say personally that it has really been difficult to do the job of the landlord and of the government in explaining these increases. I find that we are all in the same boat here: landlords, the government and the tenants. We have a long process that we have invented. It protects something. Rent control is here to stay. We have rules in everything and we have to have rules in this. That is obvious. But we can have only one increase per year. We cannot have notices being taped on the doors and three and four increases happening. It is just nonsense. It is just not working out.

That is the one thing I want to say to you today, not the dollar amounts, not work orders and not anything else, not even the percentage of increases. Let's put some stability into this. That goes especially for the carry-forward provisions and the extra above-guideline increases. They have to be done before the year in question comes up.

The focus of this bill is to protect tenants, and I do appreciate that. There are concerns, however. These are with the application of regulations to the rent control act. As you have given it to us, it is policy and not procedure in its regulations. The previous system delayed and continues to delay decisions long after the facts are in. I think our landlord got three months to submit his water and sewer bills, something like that.

Many tenants are still in the position today of being unable to answer precisely what their maximum legal rent was two years ago. Was it the rent they paid? Was it the rent the landlord applied for? Was it the rent that rent review granted? Or was it the rent still being appealed to rent review, as in our case? We would like to get back to the days when tenants knew what they would be paying in

the next year, without fear that future rent review decisions could cost them extra for rents paid long ago.

The control of rents has to mean one dollar-amount of rent for each of 12 months. Landlords used to give leases setting one rent for the year. Rent control, landlords and tenants' organizations must do the same. Everyone loses with the delay.

Bill 121 should have as part of its language the actual forms used for notice of increase in rent, notice of early termination and notice of eviction. These are currently difficult for some to follow—the wording, size—and information in these documents must be given careful consideration, including the amounts of money to be paid, the time by which they must be paid and the results if they are not paid. Clarity and simplicity are a must. We are talking about someone's home and about rents equalling half their income. Let's make it clear.

As well, let's have forms in different languages available to all landlords. Surely we now realize it is necessary to provide French-language notices. Why not Chinese, Italian, Portuguese, Spanish and Vietnamese? Simply having such forms available to landlords and tenants would go a long way to helping these tenants. What I mean is that the English-language portion of one of these notices can refer to a foreign language portion, and vice-versa. We are talking about something that is very important. I do not see what the problem is in having these things translated.

How am I doing for time here?

The Chair: Five minutes. You might want to have questions and answers. That gives each party only a minute and 30 seconds.

Mr Rozema: I realize that. I have a lot more to say.

The Chair: It is your choice.

Mr Rozema: That is all right; I will just finish my remarks. The extra things I have to say have to do with the regulations, particularly work orders and getting them done, and the policy of some not to honour these work orders. They should start on the day of inspection and continue from there.

If anyone has any questions, please go ahead.

1520

Mr Tilson: I have a couple of comments on some of the things you have said, followed by a question. You made the observation about people who own homes and what would happen if they had major increases. Unfortunately, that has already happened with the interest rates. People lost their homes five or six years ago with that very situation, where there were substantial increases in interest rates and people simply could not afford their mortgages and they lost them. That is as unfortunate a situation as the unfortunate situation of the tenant. It does happen.

The comment you made that work needed to be done first—that is the very situation, of course, that we have had under Bill 51, where work was done first. People did it. Of course, this government changed the rules halfway through, based on one set of rules—the whole issue of retroactivity under Bill 4, which you may or may not be aware of. That was a system that was being followed. There were landlords across this province that were hurt

substantially. Some have gone bankrupt. Some are in very serious financial situations.

As far as the comment with respect to language, it may be an interesting observation for the government to take, but I can tell you that there are a lot of people who speak English who will not be able to understand the legislation and the bureaucracy because they cannot even understand it in English. Even if it was a unilingual issue, those who speak English are going to have to hire business consultants and lawyers to explain to them what in the heck it all means. Whether you are a tenant or whether you are a landlord, it has become that bureaucratic.

Those are my comments, which you may choose to respond to.

The question I have for you, and that has given members in our party considerable difficulty, is the situation with the chronically depressed rent or the low rent, where buildings may need to have work done on them, yet the rent, for various reasons, is low. People have never bothered to make the applications to increase the rent or they have stayed there for whatever reason, and it is lower than the market value. All of a sudden they need major capital expenditures done to their buildings. If you look at the percentage increases that are being allowed by the legislation, it will never happen. Those buildings will never get the capital expenditures that are required, because of this legislation.

In that situation—and across this province there are a number of situations like that—what are we going to do with those people?

Mr Rozema: Capital expenditures are a problem and they must be treated in this bill. The key thing I relate to in capital expenditures is, first, that all parties must be able to inspect these capital expenditures. They cannot go on by surprise. Landlords, tenants and the government must all be able to look at these.

The second thing is that when they are calculated, a tenant does not suddenly become liable for all kinds of costs by surprise, that when an appeal is heard—let's say today, for instance—they do not suddenly find that their rent increases by \$200, even though they moved into such accommodations knowing they could afford such a rent.

My main point today is this one-increase business and the telescoping of the—

Mr Tilson: I do not think you understand my question.

Mr Rozema: You are saying that the 3% guideline does not cover capital costs. What if it goes over nine years?

The Chair: I am sorry, we do not have time. I apologize to committee members.

Ms Poole: I think members were a little bit confused when you talked about three or four rent increases per year, because everybody knows that according to the legislation you can only get one rent increase per year. But having dealt with rent review and tenants' problems for many years, I know exactly what you mean. You are talking about when there are multiple applications at the same time at rent review; there is a backlog. So one month you

get your decision. Meanwhile, it is under appeal. Six months later you may get that decision. So right in that one year, you have had three rent increases. I assume that is what you are talking about.

Mr Rozema: That is exactly it. You have hit it right on. I do not find it necessary to expand.

Ms Poole: When you were making your presentation, something just suddenly hit me. Do not say it—he was just going to say, “Something needs to hit you.” If anybody was coming into these hearings as a neutral party—I am not sure that exists in Ontario, but say we did find this amazing person who did not have a particular vested viewpoint in this issue—they would say, “Are these two sides from different planets?” I am hearing these different stories and nothing jibes. It is like the old cognitive dissonance that we heard in—

The Chair: The question?

Ms Poole: I am getting to it very quickly.

The Chair: Time is running out. I do not want to have to cut you off.

Ms Poole: The facts do not mesh, and my conclusion is that most of the tenants who are coming to these committee hearings are ones who have had problems. Most of the landlords coming to these hearings are landlords who have run a fairly decent ship and cannot really quite comprehend why the government is stepping on their head. We are not getting many of the landlords who are creating the problems and we are not getting the tenants who are satisfied because they have good landlords. We are getting those two scenarios.

Mr Mammoliti: I just want to get your opinion on something. Actually, it was an observation given yesterday by one of the landlords in reference to the penalties on work orders, that if work orders are not addressed, with this bill there will be a penalty. They said that tenants will purposely break something in their units in order to not get an increase.

I want your opinion on that. Do you think that will happen? If so, what do we do about it?

Mr Rozema: I think we have to separate vandalism from somebody taking the unlikely step of vandalizing their own home. What are they going to do—go into their bathroom and pull out fixtures and so on? I find it rather slim. The scenario that people have, I think, is where things become so run down that just one more little push will put it over the edge, and that is not vandalism.

Mr Mammoliti: Do you think it is unlikely to happen?

Mr Rozema: It is very unlikely.

Ms Harrington: I thought two points you made were very good and were ones that I would like to take back to our review of this legislation. First of all is the fear in rent review of not knowing. The whole point of this is stability. That is why we have to stick with that top cap. We cannot have fluctuations and the fear of past applications coming down and tenants not understanding.

The other point you made that followed up on that is the idea of education, communication, empowerment of the people and a feeling that they have some rights. As I

said a month ago, the balance was not even. If we can get the balance a bit more even and have people communicating, hopefully the system will work. I am very glad you are the president of your tenants' association. Try to give a message to your people that we need their help.

The Chair: Time has expired. Thanks for your presentation.

Mr Mammoliti: I hate it when that happens.

The Chair: George, I have allowed you all kinds of leeway all day long.

GRAYDON HALL MANOR TENANTS GROUP

The Chair: The Graydon Hall Manor Tenants Group. Sir, I think you have been here before. You know the procedure.

Mr Linnell: Oh, you remember. You did not call me Mr Graydon Hall today, though.

The Chair: I did not call you that the last time you were here either.

Mr Linnell: Yes, you did.

The Chair: It must have been the Vice-Chair.

Mr Linnell: Okay, have it your way.

Unfortunately, my time is kind of limited so I am going to have to skip sections that I would rather have put in.

First off, I would like to congratulate Evelyn Gigantes on her new spot. I hope she can stand the pressure she is going to be under with the opposition groups.

Congratulations first. I would like to compliment the people who have put together Bill 121. It is far more readable and intelligible than the infamous RRRA and certainly appears to be even more evenhanded. Tenants appear to be getting a bit more clout, which was badly needed.

On the percentage side, whatever percentage increase is made, one group or the other will always be unhappy. The Graydon Hall Manor Tenants Group prefers to concentrate on constructive criticism and suggestions for improvement based on hard-line experience, so let's get at it.

Definitions: “Substantial completion.” This term has been bandied around too long under the RRRA, where it appeared to be interpreted to mean that if a landlord completes work on 25% of the suites in a complex, he can collect money from the tenants, supposedly to equip the whole complex, and then never complete it.

Graydon Hall is a classic example. Dishwashers hit us five years ago. Many suites still do not have them, but the landlord is asking for more money for them again. It is the same with new kitchens, vanities and medicine cabinets. There are a few sprinkled about in two of the towers but none at all in the largest tower.

We propose that “substantial completion” be defined as completion of at least a very minimum of 75%, and preferably 90%, of the project; certainly not 25% as currently allowed. It is an open invitation to fraud.

1530

Section 19, Rent chargeable before order: We strongly disagree with allowing a landlord to collect anything other than the legal minimum rent. Allowing him to charge any

higher amount gets us into providing for interest on the extra, which many landlords seem incapable of calculating correctly. With our landlord's bookkeeping, God alone knows what kind of mess would result. He cannot even keep his bad debt list straight, changing numbers three years after a tenant has left by up to \$1,600 or more. I refer you to appendix 1, with samples of bad debt lists submitted to rent review in June this year by our landlord and some other interesting examples.

Subsection 21(7): Payment of orders by instalments: This will cover what the previous presenter was commenting on. It should apply to any order increasing rents at any time so it can be paid over a period of time.

Subsection 23(5): Who may make application: A good name for this would be the "leave and bitch clause." This is an excellent provision, but please add provision for a tenant to be included automatically in any whole-building rent reduction. We will be applying shortly for a whole-building reduction going back at least a year and it is grossly unfair that tenants who have, in many cases, had to leave because of excessive rents or employment should be deprived of their refund.

Section 23 should also be extended to include the ability for tenants to launch a class action for whole-building rent abatement. At present, it is a bureaucratic nightmare with phenomenal paperwork. Simplify it for all our sakes, please.

Subsection 33(1): Application to determine issues: A section should be added to include the determination of the validity of leases obtained under dubious circumstances. We have situations where tenants are told it is Ontario law and they are forced into an additional lease, which is not proper at all.

Subsection 39(1): Rent penalty order: This section needs rework. Currently it is nigh impossible to get a rent penalty order issued due to bureaucratic foot dragging.

Section 44: Definitions: Basic unit rent. It is very gratifying to see one's terms and ideas so firmly entrenched in the bill. Finally, it would appear someone is listening. Now we have it defined, let's continue to the next step and only increase it and not the whole bundle of amortizations annually as well.

Subsection 44(2): Elements of maximum rent: The word "may" in line 3 should be changed to "must" or "will." This has to be a mandatory requirement, not one subject to whim or because so-and-so is such a nice landlord.

Subsection 53(1): Copy of application to parties: This requires a little further clarification and emphasis. I hope I am interpreting it correctly when I believe that it means the landlord must supply a full copy of all the documentation he is relying on in his application to, for example, a tenants' association. At present, we have to pay 20 cents for each page to get a copy of hundreds of pages of documents the landlord submits. If my interpretation is correct, thank you. If not, please ensure this is what this section means.

In my presentation to you on January 16 this year, I proposed that the landlord should provide both rent review and the tenants' association with a copy of all documents,

together with a certificate made under oath, that the documents were a full and complete copy of that supplied to the other party. The under oath provision is important due to the fraudulent practices carried on by some landlords—not all. It would be easy to just omit a few critical pages here and there, knowing that most tenants' groups do not have the time or manpower to go and check each and every page.

Clause 66(2)(a): Additional powers: The rent officer should be empowered to order the production of the originals of any document for examination, not only by the officer but also the opposition parties to the matter.

Section 83: Frivolous or vexatious proceeding: This will be an excellent section if it is improved by an addition after "good faith" so that it reads as follows, "A rent officer may discontinue a proceeding if, in his or her opinion, the matter is trivial, frivolous or vexatious or has not been initiated in good faith or contains fraudulent or improper documentation or claims."

No application should be allowed to proceed, nor any rent increase of any amount be allowed, where any false, fraudulent or similar material is discovered. Furthermore, there should be provision in the act that regardless of when fraudulent documentation is discovered to have been used, any order or orders based on such material shall immediately be rescinded without the necessity of the discoverer having to sue the offending parties. Should it become necessary to invoke legal proceedings, however, the discoverer must have all costs and expenses reimbursed or the said costs borne by the ministry.

I keep harping on fraud for good reason. There is far more of it out there than the ministry or most people realize or want to know about. I have recently caught over \$250,000 worth of fraudulent claims for two items alone for one year, and that is just for openers.

Section 93: Miscellaneous: A third subsection should be added here, to the effect that no consultants' fees may be amortized for any period whatever. They are a business expense as are accountants, lawyers, etc, whose fees are not amortized. Why should tenants be stuck with additional charges to amortize a consultant's fees?

On the same matter, the economy of scale should be taken into consideration when establishing the fees allowed to rent review consultants. The larger the building, the lower the fee should be as the less work per suite is involved. The present arbitrary \$25 per suite is robbery and is usually more than the entire years' tenants' association dues per suite.

Section 102: Calculation of maximum rent: You nearly have it right. There must be a requirement that only basic unit rent, as defined in subsection 44(1) on page 37, be subjected to increase, whether by order or annual allowable percentage. All other amortizations and/or separate charges in existence must be listed with amounts and starting and ending periods so that any tenant may make an informed assessment and know by how much his or her rent will decrease on the expiry of the amortization.

I cannot buy any argument that it is too difficult to keep track of this. In this age of computers, etc, it is absolute nonsense. When an amortized amount is awarded, the

starting and ending dates are known and the amount is fixed. The practice of hiding these amounts in rent, which accounts for enormous illegal profits to the landlord of an ever-increasing amount, has to stop immediately. It is virtually impossible to go back and recalculate rents, removing the added-in amounts over so many years. We must cut our losses and start now and not allow the practice to continue.

There should also be very heavy penalties, which cannot be charged back to tenants, for any infringement, such as loss of a licence to lease rental accommodation. This should be a licensed and regulated industry, especially for the large complexes. The ma-and-pa duplex is not a problem here. It is the avaricious large operation, such as 373041 Ontario Ltd at Graydon Hall, that is the problem.

Sections 113 to 123: Congratulations are in order here for finally putting a set of dentures into the act. Hopefully, they are teeth and not removable. These powers of entry, search and seizure are very much needed, as is a strengthened investigations unit. Having recently met and currently worked with one member of the unit, I can honestly say it is high time we had these powers.

Subsection 124(5): Limitation: I suggest that, as in the Criminal Code, where there is evidence of fraud discovered that all limitation become invalid. At least ministry investigators now have two years, which used to be one, to start to do an investigation. But there should be no such limitation where fraud is established and the Criminal Code provisions should automatically be invoked. In fact, such a matter should automatically become a criminal investigation and not be subject to provincial legislation at all.

In closing, I sincerely hope you will consider our recommendations seriously. This has the makings of being good legislation and I consider it a privilege to have been allowed to take part in its birth. As president of the tenants' association of one of the largest complexes in North York—we have 888 suites—I feel that with our experience we have a lot to offer the ministry, if it will listen. We try to be evenhanded and completely fair. I think you will find that the documents at the back of my presentation will speak for themselves.

The Chair: Mr Mammoliti, any questions?

Mr Mammoliti: I am going to hand it over to Ms Harrington.

The Chair: I knew you were going to do that. As soon as I give you a chance to go first—

Ms Harrington: Thank you very much, Mr Linnell. You had appeared before our committee before and you certainly had lots of suggestions. I see we still have a ways to go. I know you have other concerns about fraud. Are they contained within this document as well?

Mr Linnell: You have some evidence of it supplied there.

Ms Harrington: I think I will see if my colleagues have any further comment on this.

The Chair: There is really not enough time.

Mr Turnbull: I believe Graydon Hall has very high rents on units.

Mr Linnell: Correct.

Mr Turnbull: I would like to differentiate between the building you are in, which is typically in the \$1,200 range for rents—

Mr Linnell: I am paying \$1,240 for a three-bedroom apartment. They go as high as \$1,260, and one-bedrooms are around \$800 to \$900.

Mr Turnbull: Okay. Taking the difference between your rent and those that under Bill 51 were called chronically depressed rents, where we have heard evidence of people who are getting \$50 a month in rent and there are many, many units that are getting \$150 or \$200 a month, does it seem reasonable to you that those people with the chronically depressed rents, the building owners, should be treated in the same way as the people who own the very large complexes that have very high rents? What I am referring to is the ability of a landlord to repair a roof or an underground garage if he has very low rents, an example being if you apply a 5% rental increase to a \$1,200 rent, you have a \$100 increase, whereas if you have a \$200 rent and you apply a 5% rental increase, you have \$16.80. Does it seem reasonable to treat both buildings in the same way?

1540

Mr Linnell: You are into the old problem of when we—in fact, in the good old days when we went on strike for 15 cents a week, that was a devil of a difference from 15%, and all of a sudden the unions discovered percentages and the whole darn world went crazy. You talk about replacing garages, etc. You come right back to exactly a point that I raised on January 16 before this committee, that there should be a capital fund for major repairs such as this. There is no getting around it. Condominium corporations have to have it. Why the hell are not rental accommodations forced to have it? It makes business sense. If you are running a plant, you do not go running out to your customers and hit them for an extra \$1,000 on the product just because you need a new roof; you take it out of your profits.

Ms Poole: I just wanted to say thank you, John, for your comments. I think I was up to a list of 17 possible amendments I had so far and I think I have added another 10 from your list to that.

Mr Linnell: Any original thinking, Dianne?

Ms Poole: On my part, probably very little, but there will be some creative thinking when we get down to it.

Mr Linnell: Give me a call.

Ms Poole: I do find it very helpful about your brief that you have been so specific and looked at the specific sections of it.

The one that I wanted to ask you a brief question about was the frivolous or vexatious proceedings, if you want to elaborate on that. I felt it was very good because it was what you would have called unbiased. On the one hand, if a tenant makes a trivial, frivolous or vexatious proceeding, then the rent officer has the right to stop it. On the other hand, if the landlord has been indulging in fraud—I do not

know if "indulging" is the right word—the rent officer has that same right. In your experience, you have mentioned that you have had examples with your own landlord, our beloved Mr Pieckenhagen. Anyway, you have had examples of fraud. Have you also seen examples on the other side where you find that tenants are taking cases that do not have much merit?

Mr Linnell: Frankly, no. I realize it goes on. You just have to listen to people talking, for a start, and you know what is happening, or go and look at rent review files. It is there but, by and large, the standard of tenant I have to deal with is possibly somewhat better educated. They have a few more brains sometimes. Sometimes I wonder, especially some of the questions I get asked.

The Chair: Thank you very much for your presentation.

Mr Mammoliti: Mr Chairman, if I may, on a point of order: Just to perhaps bring something out in the open. I do not really want to criticize you, but—

The Chair: No, but go ahead, George.

Mr Mammoliti: —Mrs Harrington got about 30 to 45 seconds to talk and to ask questions. She then offered to colleagues to ask and you said no.

The Chair: That is right.

Mr Mammoliti: You then went over to Mr Turnbull, and then to Dianne Poole, who both got about a minute and a half or two minutes. I just thought I would point that out. I think that is a little unfair.

Mr Turnbull: It is a capitalist plot.

Ms Poole: You just have to become his friend, George. Then he would give you extra time.

Mr Mammoliti: I am his friend, Dianne. I am your friend as well. I am everybody's friend.

EL MIRADOR APARTMENTS

The Chair: The next presenter, El Mirador Apartments. Sir, you have 15 minutes to make your presentation.

Mr Janowski: I apologize. My handout was supposed to meet me here and I am here first. This is the first time I am doing anything like this, so please bear with me.

I wish to thank the committee for the opportunity to speak today. I am Israel Janowski, property manager for El Mirador Apartments.

Eighteen years ago this month, my wife and I took up residence in Cincinnati, Ohio, where I entered the field of education as a teacher, and soon afterwards as an elementary school principal, a position I held for 13 years. The night before I was about to step into a classroom for the first time in my life, I had a talk with my mentor, an experienced and perceptive educator. "Please share with me the secret of good teaching," I asked, and instead of a long dissertation, she said only two words, "Be fair." Throughout my career in education, that maxim remained with me constantly. There will always be someone who will not be completely happy. You cannot please everyone, but in all my dealings, students, teachers, parents, board members, community workers and volunteers, everyone knew that if a difficult decision was based on fairness, they

could accept it—swallow hard, perhaps, but accept it—and I had an exceedingly successful career because of it.

Five years ago, my father called. He had helped build a successful family business over 40 years. During that time, he and his two brothers put up a few small and medium-sized apartment buildings. For the past 20 years, the business has consisted of managing them. My father now wished to retire. Could I come home and take his place? I made that fateful decision and did indeed come home.

My decision was based on the fact that I knew residential property management today meant not simply working with plumbing, roofing and elevator problems, but indeed, and more important, it meant working with people. It meant dealing with tenants, and not only their torn screens or leaky faucets or worse problems, but also with the everyday problems of people out of work, unable to pay this month's rent on time, single mothers needing day care, children out of control, broken relationships between husband and wife and between neighbours living across the hall from each other. We deal with all of these issues.

Residential property management today also means helping create a safe, clean environment where every one of us here today could live comfortably and happily. There is no question that work as an educational professional has helped sensitize me to the needs of our tenants. Indeed, we are proud of the fact that tenants find us approachable and always willing to listen. To excerpt from a recent tenant committee letter to the tenants of one of our buildings:

"The tenant committee members feel that all matters pertaining to our building have been dealt with to the best of our ability, and always with the tenants' best interest in mind. We have even established an amicable tenant-landlord relationship with Mr Israel Janowski, the owner of the building, whose office resides on the main floor and can be reached at"—our phone number. "He is the individual you should direct any future grievances to."

The only error in that excerpt is that I am not the owner. I wish I were. Otherwise it is quite true we enjoy an excellent tenant-landlord relationship, to the extent that the tenant association felt there was no need for it to continue its formal existence at this time and the tenants officially dissolved the organization.

My success now, as in my previous vocation, has been based on, very simply, fairness. I have always tried to be fair in all my decisions, which at times may require someone to walk away only partially satisfied. But they know they are being treated fairly and that saves the day and the relationship prospers.

Ladies and gentlemen of the committee, I am before you today to plead for only one thing, and that is fairness. I must say the unfairness of Bill 4 and the proposed Bill 121 has left our company quite literally in shock. I do not exaggerate.

1550

Allow me to share with you three specific areas of very negative impact on our company as they relate to Bill 4 and are not remedied by Bill 121.

We undertook major capital improvements in two 30-year-old buildings, costing over \$1 million, work that was caught by Bill 4. The work was completed in July 1990.

This work includes replacement of the roof and plumbing risers and major garage repairs. Independent consultants attested to the fact that ongoing repairs have been performed extensively over the years in all these areas in those buildings. The experts determined that complete replacement of the roof and risers and major repair of the garage would now be necessary, as spot repairs would no longer be effective or feasible. In good faith, we performed the work based on existing legislation, fully expecting to recoup the very legitimate extraordinary expenses.

Bill 121 will, based on our conclusions, allow us to recoup only a fraction of those funds already spent. While stranded in this indecisive limbo, it costs over \$115,000 a year just to carry those loans, based on today's 11.25% five-year mortgage rates, without repaying a penny of the principal.

Is it fair to retroactively limit the allowance to a 3% cap for only two years, after reducing an additional 2% per year as part of the guideline, when our planning in 1990 took none of this into account? How can a sound business operate under those circumstances, where the rules of the game change retroactively after the game is concluded? At the very least, allow the 3% cap to continue for succeeding years until the bill is paid, and deduct 1% once, as under the old rules upon which the project was based.

Furthermore, how does one pay for new capital repairs during those years the old Bill 4 work is being paid for? Please remember, these are 30-year-old buildings and no amount of ongoing repair and maintenance will prevent the eventual need for new roofs, elevator refurbishings, new boilers and on. Indeed, there is no way the 3% cap will allow for all those necessary repairs as well.

What should one do when the capital repairs are absolutely essential, it is clear there has not been ongoing deliberate neglect or reduction of services, and the 3% will not pay the bill? What does a landlord do? There must be some flexibility. There must be some fairness.

Item 2: We were unable to rent two huge, four-bedroom penthouse apartments for about three years and decided to renovate them and create four smaller three-bedroom apartments. The proposed rents, tentatively approved by the rental housing protection office, would be affordable and the project would add additional rental stock. Our research indicated these apartments would be very desirable. Government officials told us the same thing. With green lights from all necessary agencies, we invested well over \$10,000 in planning, engineering, architects and so on.

The proposed new legislation has killed the project because we would now not be able to bring the new rents in line with our construction costs. The apartments are now sitting empty because three different real estate firms have been unable to rent them at or even below the allowable rents, and we are told the apartments are simply too large.

We have lost over \$10,000, spent in good faith, and the community has lost additional housing stock. There must be a mechanism for flexibility. Everything is not simply black and white. Please be fair.

Item 3, my final item: Back in the 1950s and 1960s, it was common to put up apartment buildings surrounded by

much excess land. We have received approval and building permits from the city of Scarborough and the city of North York to build 44 rental townhouses at two such sites. These projects are to be models for future infill proposals, which could potentially add significant numbers of affordable housing units throughout the province. An additional 13 units are being proposed for a city of Toronto site. Seven years of planning and many thousands of dollars have gone into these projects thus far.

We are now being counselled by our legal and financial advisers not to proceed with these townhouses due to the new legislation. The financial experts are saying that there is no way such projects can become profitable in five years, as Bill 121 allows, but could actually take at least 10 years for one to recoup the losses. Our legal advisers worry about whether these projects might not be considered new construction, but merely an extension of the adjoining buildings, which are governed by the legislation for previously existing buildings. Conceivably, we could complete the project and find out later there is in fact no moratorium applicable, the five-year moratorium.

As things stand now, there is simply no provision in Bill 121 for advance rulings. It would spell our ruination. Furthermore, the unpredictable danger of some future possibly harmful retroactive legislation has now been firmly planted in our business psyche by Bill 4 and has only been entrenched by Bill 121.

We are not a large company. We have, however, the opportunity to add to the depleted rental housing stock in a way that would benefit the community. It is most unfortunate that the very negative climate brought on by the proposed legislation will definitely cause us to cease our own modest activity in this area. There are so many aspects of Bill 121 which absolutely terrify us. We are truly and sincerely worried for our future viability.

All we ask for is some fairness. Please listen. Hear what landlord advocates have to say and please consider us. We know, realistically, where everyone's politics lie, we are not naïve, but we do ask for some flexibility and some fairness. I thank you for listening, and I have my handout. It is almost like in the movies.

The Chair: We have time for one quick question.

Mr Tilson: The retroactive issue: Obviously, I quite concur on the whole issue of fairness; landlords should be fair, tenants should be fair, the whole relationship. Do you trust this government as a result of the retroactive legislation put forth by Bill 4?

Mr Janowski: I must say we do not.

The Chair: Mr Mahoney and Mrs Poole.

Ms Poole: Mr Chairman, I just want to thank the presenter and I am going to pass my time to George so he does not feel slighted.

Mr Mammoliti: There is no need for that, Dianne.

Ms Poole: We are just making up, George.

Mr Mammoliti: The presenter was asking for fairness. So am I. There is no need for those comments here.

The Chair: George, do not waste Mrs Harrington's time, please.

Ms Harrington: I would like to thank you for this copy I have just received of your submission. You have mentioned the flexibility, that we have to work with you for many reasons, and I agree. One of the reasons is that new rental stock is very obviously needed. I hope when our staff goes over this, we can see where we can join to do this together. Thanks.

The Chair: Sir, thank you for your presentation.

1600

HIGHMARK PROPERTIES

The Chair: Next is Highmark Properties. I think you have had experience here before also. I will turn the floor over to you. You have 15 minutes and you can reserve some time for questions if you wish.

Mr Every: Mr Chairman, committee members, good afternoon. My name is Allan Every. I am one of the founding principals of Highmark Properties, a partnership formed in 1977 for the purpose of providing property management services to the residential rental industry in Ontario, and my chosen profession is that of chartered accountancy.

Highmark is presently responsible for the day-to-day stewardship of in excess of 25,000 suites across Ontario, which house more than 55,000 residents of this province. In that capacity, we are, to the best of our knowledge, the largest privately owned landlord supplier of such services in the industry.

The principals of Highmark Properties have negotiated, on behalf of clients, the acquisition and financing of 10,000 rental suites during the course of the past 10 years and consider ourselves to be experts in the business of ownership and management as well as valuation of apartment buildings.

Notwithstanding the fact that Highmark is today Ontario's largest non-governmental landlord, we operate only 2% of the rental housing units in Ontario, which highlights the fact that ours, unlike others, is not an industry dominated by corporate giants.

The vast majority of our clients, like most real estate investors, purchased their properties with the intention of holding them for the long term. We today continue to manage the portfolio of buildings purchased in 1977 by our very first client. The day-to-day operating decisions have therefore been made with the long-term interests of the property in mind, clearly a benefit to all concerned, including the occupants of our buildings.

The private rental housing industry in Ontario has built and presently manages in excess of 1.1 million residences across the province, providing homes to over 40% of the population at a current monthly rent of \$550, accounting for less than 18% of the family income of those who occupy them, according to Statistics Canada, and I refer you to appendix 1. In the greater Toronto region, which chronically suffers from one of the lowest vacancy rates in the province, average rents in October 1990 slightly exceeded the \$620 level based on the most recent CMHC annual survey taken that month, as referred to in appendix 2.

In contrast, it currently costs \$1,800 per month to carry a recently constructed non-profit co-op apartment and

\$2,100 monthly to carry a 75%-financed starter home. Clearly, the least expensive form of self-contained accommodation in the Toronto area and across Ontario is that currently provided by the private rental housing industry at less than one third of the cost of the aforementioned alternatives.

In view of the fact that it currently costs an average of \$325 monthly to operate a rental apartment, excluding the cost of servicing debt, and that the balance of the monthly rent of an average suite is barely adequate to carry a \$30,000 mortgage at current interest rates, and in view of the fact that the average rent increase in the province last year, including those that went to rent review, was less than 6%, landlords are clearly not the gougers that some uninformed parties are only too happy to believe to be the case.

A brief review of the significant features of Bill 4 is in order at this point in time to properly focus upon all the salient changes to the previous legislation which the NDP government will have implemented by the time Bill 121 is enacted.

Bill 4 effectively restricted annual rent increases to an amount which at least allowed a landlord's revenues and profits to keep pace with inflation, provided that expenses in any given year did not materially exceed 50% of revenues and, as well, did not significantly increase in excess of the same rate as the revenue guideline. I refer you to appendix 3.

Bill 4 terminated all previously granted decisions which provided for an orderly series of annual increases, capped at an additional 5% over the annual guideline increase, awarded only under those circumstances in which a building was losing money, providing for gradual increases over time until a building reached the break-even point. The termination of the financial loss provisions effectively ensured that all buildings operating at a loss would continue to do so in perpetuity. In terms of cash flow, only buildings purchased within the last five years were directly impacted by this change, since such losses arise in those circumstances where new financing costs are legitimately incurred upon the sale of a property at fair market value, but all buildings were affected value-wise.

Bill 4 also terminated those increases arising from the expenditure of significant amounts of money by the building owner on major repairs and improvements, the cost of which resulted in additional rent increases to the extent necessary for an owner to recover only the cost of the work, including interest charges, over the useful life of the particular building component.

With respect to Bill 121, from a landlord's perspective the only even modestly positive change is that with respect to major repairs. A building owner will now have to spend in a given year an amount equivalent to the cost of replacing the entire roof of a building, which is a significant cost in our industry, without compensation. Only additional expenditures that same year will be eligible for an increase above the guideline level. Effectively, a minimum of 40 cents of every dollar spent annually on capital expenditures will not qualify for recovery from tenants, and those rent increases above the guideline to be granted at that optimum spending level will fall well short of being adequate to cover

even interest on the related debt, were such costs to be financed.

Accordingly, the new legislation will not provide the landlord the ability to recover this further investment in the property from the tenants who benefit from the expenditures. Furthermore, lending institutions will not be responsive to financing such costs and, contrary to those who would have you believe otherwise, cash flows from Ontario's apartment buildings, besieged by 15 years of ever-tightening rent legislation, simply cannot fund expenditures of the magnitude required to properly maintain them.

However, a number of changes are distinctly for the worse. The formula utilized to calculate the annual province-wide ceiling on rent increases, formerly one which provided for increases that approximated the general rate of inflation, will be modified for the majority of rental buildings, a change which, had the new rules been put into effect immediately, would have slashed the 1991 ceiling from 5.4% to 4.6%. In reality, when the ever-declining purchasing power of the dollar due to inflation is taken into consideration—and it must be—rents will be going down each year for such buildings.

On an even more restrictive basis than was the case with Bill 4, the major operating expenses, redefined as realty taxes and utilities only, would have to increase by in excess of 50% of their guideline component before a landlord could apply for rent increases to offset such escalations in costs.

As well, the new legislation, unlike Bill 4, fails to recognize increases in mortgage rates, a potential disaster for most members of the rental industry should interest rates ever escalate by just a few percentage points, since for most owners debt service represents by far their highest annual cost and is as legitimate a cost of doing business in our industry as it is in any other, whether this government wishes to recognize that or not. The interest costs of financing any business must be built into the selling price of its product or services if it is to earn a profit.

Finally, as with Bill 4, those building owners who are losing money shall continue to do so and indefinitely, particularly in light of the reduction of the annual guideline ceiling. Those who spent millions of dollars in 1990 on legitimate capital expenditures, who became victims of the retroactive provisions of Bill 4, will at best receive only token relief under the proposed legislation.

Many of those who will appear before this committee or submit briefs will undoubtedly provide you with an excellent technical critique of the bill and make numerous recommendations for changes. However, we do not believe that any substantive changes will stem from this consultation process since, on balance, Bill 121 reflects little of the compromise which the former Minister of Housing repeatedly implied could be expected when urging the opposition parties and ourselves to allow Bill 4 to be passed quickly. The fact of the matter is that we were misled.

As a result of this legislation, those landlords who are now losing money will always lose money and, as reflected in appendix 4, the cash flows of those landlords who presently make money will inevitably dwindle and

disappear. Some will get there faster than others: those with mortgages that mature whose interest cost increases will never be recognized and those with significant operating cost increases or capital expenditures in a single year which would otherwise have generated increases in excess of the new 3% cap.

But of particular irony is the fate of your model landlords, those who constructed their buildings, say, 25 years ago and held and maintained them for their limited cash flows, having never gone to rent review. Ironical, because these providers of low-cost housing, whose operating expenses have risen in tandem with all other buildings, now suffer from an exceptionally low profit margin because their rents are also very low, similar to the example of building B in appendix 4. Mathematics dictate that their cash flows will deteriorate faster than all others until there are none.

What has the effect of all of this been already on the value of Ontario's buildings? As the Association For Furthering Ontario's Rental Development ad in the Wall Street Journal stated, \$20 billion of value has been wiped out on a conservative basis, representing 20% to 30% of the value of each and every apartment building across the province. These decreases have nothing to do with the recession, since ours, until last September, has been an industry of predictable, stable cash flows, and prevailing interest rates have been favourable. Do not take my word for it, though; ask any licensed appraiser familiar with the apartment market, or come to our offices and we will show you numerous comparisons between pre-election and post-election appraisals.

Was all this necessary? The Premier and the former Housing minister have repetitively justified the imposition of strict rent controls on the basis that all tenants need real protection from high rents. They must mean all tenants since this legislation affects all buildings and will drive all landlords as well as all prospective investors in Ontario's rental economy out of the business.

But that more than a minority of tenants require real protection is demonstrably inaccurate. CMHC statistics—and I refer you again to appendix 1—disclose that less than one quarter of the tenants of the province pay more than 30% of their income towards rent, thereby qualifying as truly needy by CMHC standards. Since the average annual income of that group is only \$9,500, the problem is clearly an income problem. Blaming their respective landlords for their low income is akin to blaming a victim for a crime. The cost of subsidizing that group's rent, reducing it to the 30% of income level, would be \$388 million annually, representing but one third of this government's proposed non-profit solution, which it clearly cannot, nor should want to, afford.

1610

So why this NDP legislation? Does Bob Rae understand that this new legislation will quickly bankrupt many landlords and eventually drive us all out of business? One has to turn only to page 1002 of the official transcript of the Ontario Legislature of May 2, 1990—we will refer you to page 2 of appendix 5—to determine the answer to that question, a chilling yes, when the Premier stated:

"There is an alternative. The alternative is a system which says we are going to have a system of rent control in the province which will provide some very real protection. There are those who will say, 'Well, if you do that, landlords will stop flipping and you will decrease the value of buildings and landlords will want to get out of the business.' I can say without any hesitation that if that is the case, then I do not see why a building which is 10 or 12 or 15 years old should not be able to be purchased by the tenants as a group and should not be able to be operated on a non-profit basis for the benefit of the tenants who are in that building. If that is the only way and the most effective way to deal with the question of increases, then let's deal with it."

Clearly, the Premier of this province, acting as their agent, intends to reward those who he believes voted him into power by orchestrating a \$20-billion or greater reduction in the purchase price of what will become government-subsidized, non-equity co-op housing, an act which represents nothing short of confiscation of private property without compensation, behaviour that we would expect only from the likes of Fidel Castro.

Ontarians must ask themselves, "Is it right that an important industry whose contribution to Ontario society has been to build and presently provide the least expensive form of housing available in the province for more than 40% of the people of Ontario be desecrated for the sake of this Marxian ideology, one that the rest of the world has soundly rejected as unworkable and a dismal failure?"

Our ideology, that of the business community, has built and services the homes of nearly half of the people of this fine province, and we are damn proud of that accomplishment. Your ideology will only destroy them. The rest of the business community must ask itself, "Can this cancer spread?"

The Premier is quoted in this morning's *Globe and Mail*, Canada's national newspaper, as saying: "We want a closer partnership with business. Indeed, we have to have one. If we don't, the province will certainly suffer, both industry and government." Is this destructive path his idea of a partnership? Do the insurance and day care industries believe this? Ask them.

Rent controls have never worked anywhere in the world. There is no shortage of rental housing in those jurisdictions in North America where there have never been rent controls, since a vibrant, unobstructed rental construction economy has ensured a 5% to 10% vacancy factor at most times, thereby keeping rents in check. That is why Highmark Properties has this week continued its Charter of Rights case by filing its updated factum at the Ontario Court of Appeals level.

The dismantling of controls is the only solution after 15 years of dismal failure here in Ontario. Do that, convincingly, so that we can once again build and get Ontario working again. Thank you.

The Chair: Time has expired. Unfortunately, you will not get any questions, Mr Every. Thank you for your presentation.

MARG KRANJAC

The Chair: The next presenter is Marg Kranjac. Marg, we will be following the same procedure. If you wish some questions and answers after your presentation, you will have to withhold some time.

Ms Kranjac: I would like to thank the members for hearing me. I do not have a written submission. I can type with only two fingers, so it is very difficult for me. I am good at washing washrooms and fridges and stoves, though. I am so upset I need a couple of minutes to pull myself together even just to be able to talk to you people.

Ms Harrington: Why are you upset?

Ms Kranjac: Well, this law. Why else am I upset? I know you do not want to hear some cry story, but there is no other way I know how to get my point across. Three years ago we purchased this 38-unit building. After attending some government seminars, they told us how to pass the costs through, etc. We bought it as a long-term investment, not to flip it. As a matter of fact, the building was never flipped. In 30 years we were the third owners.

My husband is faced with washing two sets of six flights of stairs, after putting over half a million dollars in this property. Now we are in terrible distress, not because of high interest, not because of the recession, but strictly by this government policy. You expropriated us, you took away financial loss and you made it retroactive.

In this proposed new legislation, you are also classifying slum landlords and really good, decent landlords all in the same boat. This particular building has never been to rent review for capital expenditure, yet it is 31 years old. Our rents as of yesterday were \$505.49 for a one-bedroom with balcony, super location, and \$556.29 for a two-bedroom with balcony.

It is just beyond my belief how the minister did not distinguish guidelines between newer buildings and buildings that are 30 years old. On buildings that have current market rents of \$750, \$800—I am forgetting \$1,200—and the buildings that have rents like we have, now with 5.4% we will get between \$26 and \$28 rent increases.

I wish someone could explain to me how we can replace the roof and put in new windows—tiles are falling off in the washrooms even though it is a solid building, but it is 30 years old and it needs repairs—with \$26 a month per unit. On top of that, 2% is worked in for capital expenditures. I just cannot understand it at all. I am tongue-tied because I do not know where the logic is. Taxes alone are \$15.40 per unit. These guidelines are completely inadequate. We have an affordable product and we will be the first ones put out of business by this government. Why does this government want to make a small landlord like us bankrupt? I do not understand it at all.

Anyhow, this Bill 121, as to maintenance, as I mentioned before, all the tiles are loose in the washrooms and my husband has fixed them up and patched them up, but we have to replace them all, put new drywall and new tiles, which is costing a minimum of \$1,500 per unit. What is going to happen if this bill goes through in this form? Tenants are going to say, "My tiles are loose." Where are we going to get \$60,000 to put these new washrooms in?

Or we will get reductions in rent. What I cannot understand is that if it costs the government \$1,800 per unit to subsidize government apartments, why do they think we can survive on under \$600 and keep the building in top condition too? Where is the logic?

I do not know how many times I called the Ministry of Housing. I wrote two letters, which is very difficult for me to do, about another problem. This particular building is in Scarborough and we were ordered—we have a work order—to enclose the garbage, which is costing between \$20,000 and \$25,000. That means a sprinkler system and steel roof. No other municipality up till now has that. Where are we going to get the money for this? There is nothing in Bill 121 about work orders that are not the landlord's fault, that are just changes in the municipal policy.

I talked to 10 different people and they said, "Yes, yes, yes," and it is all forgotten in file 13; that is where it goes. I realize there are some poor tenants who cannot even afford \$200 a month rent and I am all for helping the poor tenants. But when someone starts complaining when they are paying \$550—an average tenant and they pay \$550, under \$600—in an ordinary little house, \$500 a month and without any mortgage payments, then I do not know what his government is thinking. Is there ever going to be a politician born who can say to tenants, "Look, housing is a very expensive commodity and you can't have it for nothing"? I do not think anybody has the guts to say that to anybody. It is the truth, though.

Surely the government realizes that control—look what is happening in Russia. Does it work? They are beginning to have property rights again and now you are taking it all away from here. That is exactly what NDP government is doing to us now. Like I said before, the government said it wants lots of consultation and this and that, and it seems to me it all goes in file 13. There is no consultation; nobody listens. They say, "We listen," but really no one does. I beg the committee to make some adjustments in rent increases for small landlords, not necessarily small landlords, but older buildings and depressed rents. And I am sorry I spoke in this tone.

620

Mr Tilson: I remember you phoned my office and asked me an interesting question about where a municipality orders you to do something—the garbage container and if you have them, if you do not have the money they will do it. Out of the blue they will do it and they will add it on to your taxes.

Ms Kranjac: Yes, and it is double cost. They do not care, you know.

Mr Tilson: Of course. The cost will be greater and you will not be able to add that on under this legislation because it is kept, with respect to your basic question. Let's say it went for taxes; it would be kept. Why is this government putting small landlords into bankruptcy? Why is it affecting lifelong savings? I think I am simply going to ask Ms Harrington to answer that question.

Ms Poole: I want to thank you for coming forward today. I also talked to you on the phone the other day and I

find the points you are making are coming from the heart and have much more impact than somebody coming in—

Ms Kranjac: I told you I was not a speaker so I was really reluctant to come.

Ms Poole: But you have put across your ideas very well. You raised one point which I think should be emphasized: the plight of the small landlord who has an older building. Right now the government has differentiated between what they call the small landlord and the large landlord, although under that definition you would be a large landlord.

Ms Kranjac: Oh, I am filthy rich, yes.

Ms Poole: You have seven units or more, so you are a large landlord, but it seems that it makes a lot more sense to look at old buildings versus new buildings. A lot of the older buildings tend to be the smaller buildings like yours and they need so much more work. Instead of going by the size of the building, between six and seven units, would it help if they put their capital repairs depending on whether it was an old building or a new building?

Ms Kranjac: Yes, that would definitely help. But not only that, how about people who are renting for \$800 and people who are renting like us for \$506? How much is 5% out of \$504 and how much is 5% out of \$800? Another thing is that our building has never been to rent review, so tenants had basically a free ride and a really good deal for the last so many years. If they had 10% or 15% rent increase, especially for Toronto where taxes are so high, the rent would be still dirt cheap. But all I hear is: "We can't have tenants having increases of 10% or 15%. That can't happen." It does not matter if the rent is \$1,200 or \$500 or \$200, as the honourable member said, but that does not make any difference. No one cares. All you see is headlines. This family is getting a 20% rent increase. There was a little building on St Clair where the landlord asked for a 50% rent increase. The rent was \$95 but all they looked at was 50% rent increase.

Ms Harrington: I would like to explain to you that the idea of the government being involved in rent control is really what we call consumer protection. We have that in the environmental field, of course, and we license cars, all kinds of areas where the government is involved in making sure that the consumer is protected. The government is involved in this because in the past people have not been protected. If we can get to a place where the consumers, that is, the tenants, have a fair deal and a fair deal for landlords, that is the place we want to get to.

In your particular situation, I understand you had a lot of various costs. You have a building where you have low rent and you bought that just a few years ago. I believe you have put in \$50,000 in upgrading and in painting and that has not been passed through in costs, and also you have this problem with enclosing the garbage. We want to keep these rents affordable and make sure your building is viable. I am wondering if you have any suggestions for amendments to the act.

Ms Kranjac: We cannot stay in business with rents being this low. What is affordable in your book I do not know. In my book, I think a two-bedroom apartment in

Toronto at \$650, \$630 or \$670, is affordable and it is not out of line. We would be able to survive, not make a huge profit, maybe a tiny bit. Maybe my husband will get paid for some of the sweat he puts into this property. But I do not know what is affordable in your book. It seems to me everything is for the tenant. It does not matter who goes broke or what.

Ms Harrington: I would just like to point out to you that the situation this government is facing now is that the rents are at various levels. We are trying to have some stability so there will not be great rent increases. But as you know, there is the diversity. Some buildings have taken advantage of the pass-throughs in the past and others have not, so we do have the wide range.

Ms Kranjac: But is it fair? We have someone who lives in our building and he sold his condo. One day my husband was mopping the stairs. He was just a new tenant so he thought my husband was the superintendent and he opened his mailbox and he was laughing. My husband said to him, "Jack, how come you're so happy?" He said: "You know, John, I have it made. I sold my condo. I bought a new car. I'm getting \$12,000 a year interest. My maintenance on my condo and taxes were over \$400." He got his interest cheque; that is why he was so happy, and he said, "I have a big two-bedroom apartment here for \$500-something." How do you think my husband felt when he told him that? That is the honest-to-goodness truth.

Then you tell me you have to protect everybody. I am all for poor people. I truly have a big heart and if they need help, they need help. But when someone is just abusing the system and you are a tenant, that is it. You are God. Sorry my English is bad. I am not educated so I am not phrasing this very well. Thank you.

Mr Mahoney: You are doing just fine.

The Chair: Very good, Marg, thank you for your presentation and for coming today.

1630

47 THORNCLIFFE PARK DRIVE
TENANTS' ASSOCIATION

The Chair: The next presenter is 47 Thorncliffe Park Drive Tenants' Association. You have 15 minutes for your presentation and you can withhold some time for questions and answers after. I will let you know when you have about four or five minutes left.

Ms McCleave: Thank you. My name is Janet McCleave and I am the president of the 47 Thorncliffe Park Drive Tenants' Association.

We followed along with a lot of this legislation, which is much needed, so these are some of our comments. Time did not permit a full examination of Bill 121. A more complete analysis with our suggestions for change will follow.

Initial reading of this document does not give me much security that it will provide rent control. Although there is some mention of penalty to landlords who do not comply, I am left with the feeling that there are many holes that some landlords, with the help of lawyers, accountants, seminars and various consultants, will use to increase rents.

Decency, good business ethics and moral values are not something easily legislated. Perhaps this is the difficulty with this document.

Tenants over the last several years have undergone excessive stress as a result of the RRRA 1986. It was the hope of many of these people that this stress be ended. This bill does not do this. Tenants will still have to spend considerable time and effort fighting some landlords who will opt to take advantage of every loophole and ambiguity.

I realize the government is making an attempt to appease the landlords, particularly some who have been caught in the squeeze. Good fair business practices by these landlords would not have put them in this position. Those who bought buildings at a price too high should suffer the loss, not the tenants who live in them.

Much of what is in this proposed legislation will continue to allow landlords to increase rents as a result of neglect, if tenants do not continually monitor the situation and put considerable time and effort, as well as money, into their fight for fair treatment by landlords.

The result is that there is virtually no end to the rent increases. An accused criminal gets more justice than this. Recently criminal trials were tossed out of court because they were not tried in what was considered a sufficiently speedy time. Tenants should not have to suffer these extended periods of not knowing how high the rent will go.

More onus should be placed on landlords to abide by the legislation. There should be stiff penalties for landlords who do not conduct their business in keeping with the legislation. The onus should not be on the tenants to monitor the landlord. We just want to live in the building, not to continually have to monitor the landlord's business practices.

I do not see enough mention of a maximum rent increase that can be charged in any year. With enough effort, a lawyer and an accountant, working together, could plan and get excessive rent increases over a good many years. In fact, some are already laying the groundwork.

I thought the intent of this bill was to control rents. For landlords who conduct their business using good ethics and fair business practices, there is little need for control. However, for landlords who do not, much tougher legislation is required. Fair landlords who look after their business as a long-term investment will be able to work within it. People's homes are not the place to make short-term profits.

With the time I have left I will address some particular points in the legislation.

I do not see any protection for people who are living in illegal apartments.

Part 1, page 1: Any discussion of money should clearly state whether it is expressed in actual dollars or per cent. Mathematical examples should be given.

All decreases and savings a landlord realizes should be accounted for before any consideration is given to extraordinary increases. The intent is to promote actual protection of resources and ensure efficiency of operation. This would result in minimal extraordinary charges to tenants.

Capital expenditures: Where the work was completed between January 1, 1990, and June 6, 1991, these are covered

under the RRRA 1986. Landlords should have applied by now for any increases they might want to be getting.

It is not clear here when these increases should start. This needs to be very clear. Some landlords operate under the assumption that they are entitled to retroactive rent increases if they have given the tenants the 90-day notice prior to the time the retroactive rent increase should start. If this hole is not plugged, tenants could be paying retroactive increases for up to or exceeding a two-year period. Surely this is not the intent of this bill.

On page 2, number 4: The tenants must be made aware of the effect on their rent if they consent to an application for a capital expenditure. The tenant must be informed in writing of the amount the rent would increase and for what time period. This would constitute informed consent. The term "capital expenditure" does not necessarily mean to a tenant that his rent could go up. When I was presented with a new fridge that I did not need, I did not realize that my rent was going up. To me capital expenditure meant simply that the landlord was going to spend some money for fridges and a lot of other delayed maintenance. It must be a requirement that the effect of any capital expenditures be made very clear to tenants. To assume they know the meaning of these terms, which are used differently in many different contexts, is a serious omission.

Number 5: New and additional services. The effect on rent must be explained fully in writing to every tenant affected. "An increase awarded cannot exceed the guideline by more than 3% in any year."

That wording, combined with the many statements made regarding methods of applying for amounts above the guideline, does not give me the comfort that in any year rent could increase by only the guideline plus 3%.

In order to prevent guideline plus 3% increases for many years in a row, it should state that the application by the landlord can be made a limit of, say, six months after the work was completed and the invoice for the work received. This would affix a specific date for completion of the work and thus a limit on the time period over which the landlord could make an application.

There should also be a specific period by which the landlord could expect an application to be considered by the government, say three, months. All of this would reduce uncertainty for tenants and free up some of the money to be spent in other areas of the economy and, I cannot help but add, perhaps in other countries.

I believe the intent of the government is to provide a system of fair rent control for both tenants and landlords. This proposed legislation must be examined with a fine-tooth comb for ambiguities and loopholes. If it is not done prior to passage, it certainly will be done after. Unfortunately, at that time it will not be done in the nature of fair play. I do hope all omissions and ambiguities will be cleared up by the government before passage.

Ms Poole: Thank you for your presentation today. There was one item that was not mentioned in your brief, and I wonder if I could have your comments on it. Would you, as a tenant leader, like to see a right of appeal in the legislation?

Ms McCleave: I believe that under this legislation there is the right of going to the law courts for appeal under a question of law.

Ms Poole: Question of law only, that is right.

Ms McCleave: What I like to see is that it be a short period. This thing of going on for years and years not knowing what your rent is going to be—I do not even care. Find out what your rent is going to be and know about it. If you do not like it go live on the street. Do anything, but do not have to live under the situation for years that you do not know what your rent is going to be or where you can go.

You have to know what your rent is going to be, and I do not know if putting in an appeal procedure would help that any. Unfortunately, I just think that the business practices of some landlords are unethical and it is very difficult to play ball with somebody who plays by some of the rules. You have to legislate it. I do not know if an appeal procedure would help.

We already had an appeal procedure. It did not help. The legislation has to be very sound in the beginning. An appeal procedure is not the solution to unsound legislation that is not clear in the first place.

Ms Poole: I certainly agree with you in that regard, and that is the job of our committee to try to make it just and fair. At the same time, right now, the way the legislation is drafted, there will be an enormous amount of discretion placed in the hands of bureaucrats and I do not know if I have a great respect many times for what bureaucrats do and the work they provide. But I am also quite leery of putting that amount of discretion in their hands and then having tenants or even landlords not be able to question their decision.

1640

Ms McCleave: I think maybe another way would be to have a government body that would be like an ombudsman for tenants where tenants could become educated and have questions answered. To have all these different tenants' associations running around trying to appeal things without lawyers, with people who do not have the time or the knowledge to do this work, I think something put in place that would protect the tenants might be a solution.

In the process, they are talking here about tenants giving consent to extraordinary expenses or certain improvements that are made to the building. I think part of the problem is that there is not a complete understanding. If there was a place where tenants could find that out and have sort of an ombudsman to help them or a committee of that sort, I do not really know if an appeal would be needed. I recognize the government is trying very hard to make a fair deal for tenants.

Mr Duignan: If I could expand on that a little bit more, would you be in agreement with establishing an advisory committee that would help out landlords and tenants? I know it was mentioned in the green paper.

Ms McCleave: I think there needs to be some kind of an education process where people could ask questions and get answers from a person who would be impartial or

be on the side of the tenants and maybe have someone else who is on the side of the landlords. But there has to be a way tenants can learn what their rights are without each individual tenants' association or person running around. I have better things to do in my life than what I have been doing the last six months. My time and a lot of other people's time could be a lot more productively spent than spinning our wheels trying to do rent review.

If there was a government body or committee or whatever that could provide this expertise and protect the tenants so we would not have to spend so much time, I am sure we could have a little bit more productive economy and it would probably cut down on some of your health care costs too.

Mr Duignan: You would also like to see a fixed time for processing applications, say, no more than six months or three months, whatever the case may be?

Ms McCleave: Yes, because it is very, very stressful living like this. It is just awful, just terrible.

The Chair: One more short question.

Mr Duignan: The particular apartment you are living in is what, about 474 units? It is one of three complexes in that region?

Ms McCleave: There are several more.

Mr Duignan: Have you had a lot of problems regarding maintenance?

Ms McCleave: We have not had problems, except the maintenance was put off for years and the money probably was taken out of the building. I do not have access to the landlord's books, but they have built other buildings in that neighbourhood and there was no money put into repairs. Now the tenants are expected to pay for the repairs in the building, which were perfectly predictable and the landlord should have set money aside for that. He should not have taken the money and put it into other buildings. That is just bad business ethics. It is sort of immoral to do that type of thing to people who are renting in your building for many years. Why should the people pay for the whole building and then pay for it to be repaired all over again? It just is not fair.

Mr Tilson: I gather you have read Bill 121, or perused it?

Ms McCleave: Yes, perused it is more like it.

Mr Tilson: I know what you mean. Having heard perhaps some of the comments that have been made, are you, as a tenant, concerned about the effect of this legislation, that it might diminish the standard of maintenance or repair in your building?

Ms McCleave: No. My thought is that if people are not able to look after their buildings under this type of legislation, then they will have to sell their buildings at a loss to somebody who will be able to do it.

Mr Tilson: We are having landlords come to me at least, and my colleague Mr Turnbull, and saying to us, "We simply can't sell our buildings" because the value had depreciated.

Ms McCleave: If they put the price low enough they will be able to sell them.

Mr Tilson: That is the problem; are they to sell at a loss?

Ms McCleave: That is okay. Why should I have to pay to redo their building?

Mr Tilson: I have no further questions.

The Chair: The time has expired. Thank you for your presentation.

HARRY TAYLOR

The Chair: The next presenter is Harry Taylor. Mr Taylor, you have 15 minutes for your presentation and you can withhold some of that time for questions and answers if you wish.

Mr Taylor: I am not a big-shot landlord. I am just an ordinary working guy. I have worked as a carpenter all my life. I was construction superintendent for the city of Toronto for 30 years. I retired four years ago. Thirteen years ago my wife and I bought a 26-suite building in East York. It was 40 years old.

It was in need of lots of minor repairs at the time, but after going through with the purchase I was not in any position to spend a lot of money on it. Being a carpenter and having two healthy, able sons to help me, we were able to do all the work ourselves. We did not pay anyone to do anything over the first 11 years we had the building. We did everything ourselves, even the electrical work, plastering, plumbing. You name it, we did it. I was capable, I could do it and I did it. So my costs were very low. We were able to keep the building and make all the payments on it.

When I retired, I realized that the building had got to the state where, being 40 years old, it needed extensive refurbishing. The fridges, stoves, all the appliances, windows, kitchens, the whole thing, everything was original, it was all 40 years old. Some people say it should be up to the tenants whether or not you throw out a 40-year-old fridge. The tenant will not agree to do anything if it is going to increase the rent.

I am speaking as an ordinary working guy. Asking a tenant to do something that is going to increase his rent is equivalent to asking people who work at Queen's Park how many of them do not want an increase in wages. You will not need a very big piece of paper to get all their names. Let's face it. People are not stupid. Nobody is going to agree to a rent increase. But the work has to be done.

When a tenant moves out and the fridge and stove are ruined and you want to rent to another tenant, to somebody decent—you do not want to rent to some clown who is going to give you all kinds of trouble—you are going to have to replace that fridge and stove. Mine all being 40 years old, I replaced the whole lot. In March 1990, I started \$180,000 worth of capital cost improvements and I finished them all in August. All the paperwork was filed with the government in August.

I am not reading from my brief. You have a copy of it and you can verify what I am saying, but this is most of what it is all about.

I did all this work and I was persuaded by the rules that the government had in place to do this work. I was convinced that I should do this work because the money I was going to spend on it was going to get returned either to me or to my family through monthly increments in the way of a rent increase.

As far as fair play is concerned, there was one guy before me who very eloquently explained how fair play works. I have copied what it says in the dictionary and put it in my submission. To pass legislation like this, your government has no idea how fair play works at all. You have absolutely ruined me and my wife after 30 years' service with the city of Toronto.

Marg Ward, who is one of your MPPs, said, "We had to do this to stop offshore investors coming to Toronto, buying buildings and flipping them." How can you class me, a guy who has been in this city for 40 years and has worked for the city for 30 years and had a building for 13 years, with an offshore investor who comes in and flips a building? You have ruined me. You have absolutely ruined me.

I could come up with \$150,000—I did come up with \$150,000, being a retired man with a grown family—and I borrowed another \$30,000 from the bank. Now I have lost my \$150,000 and I owe the bank \$30,000 at 11%. I am in a real damn mess. I was in good shape, because I was one of those guys you have heard of, a workaholic. I worked and worked and worked, and everybody said how crazy I was. I have only just realized I was crazy. I have done it all for nothing because of you guys coming in and pulling a stunt like this.

1650

How can you justify ruining somebody like myself? All I did was follow the rules that were laid down by the provincial government. I did not cheat anybody. I did not commit any crime, and you fined me \$180,000. I have paid the money up front. Now you are saying, with your new legislation, Bill 121, I can reapply. What you do not realize is, to a guy like me, reapplying is a big deal. I am not making any excuses. I am not a paper man. I am hopeless at paper work. I could replace that set of doors over there, and I am probably the only guy in the room who can do it. So I am not ashamed, but I am not a paper guy.

One guy talked earlier about allowing consultants \$25. I had to pay the guy \$2,000, and the cheapest guy I could get before him was \$3,500. You cannot get these guys cheap, and I cannot do the work myself. My wife cannot do the work. But now, in your new legislation, you are saying I can go through it all again. I can apply again, and when I have applied, I can possibly get a fraction of what I was justified in getting under the old legislation.

I spent all my money, my life savings, under the old legislation. Now you say I can start again and work under the new legislation. Where is the fair play in this?

What you are telling me is that I cannot do the work. What am I going to do about that? I have already done it. Why did you not tell us we could not do it? Nobody told us we could not do it when I was doing it. Not only that, they said, "You've got to have all the work done." It is only if you manage to get 25% of the work done that you

can put in your application. I was never told that. When I phoned, I was told I had to do 100% of the work. It had to be substantially complete and all the bills paid. Mine was done, complete, all paid for when I put the application in.

Another mess you have made: You said that if any of the rents came due before you came into power, the October deadline, the whole thing would be passed through. Not being a paper man, as I say, my rents went up in this building in every month of the year. They were all over the place. So to simplify things, and to the tenants' financial advantage, the rents that were due for an increase in January, I could not put those to December; so I put everything to December. I gave everybody a break and put all the rents back to December.

Because I did that, you people have cheated me out of \$180,000. I honestly do not think you realize what you have done. That is about it.

Mr Turnbull: All I can say, Mr Taylor, is I think you have said it very eloquently. I commend you for coming down and explaining in very straightforward terms what the crux of this problem is. I have said this over and over again, I am concerned that there are many, many people throughout the province who are going to have their whole pension funds wiped out by this kind of legislation.

Mr Taylor: Exactly.

Mr Turnbull: We have got to find a way of protecting tenants from being disadvantaged, but this is not the way to do it. Thank you very much for your excellent presentation.

Mr Brown: We appreciate your coming, sir. The same questions you have asked we have been asking over the last nine months or so. We as a party are going to pass our time, because we want to hear the government's answers to your questions.

Ms Harrington: I would like you to explain what you meant by a \$100,000 loss. Was this accumulated over several years?

Mr Taylor: I spent \$180,000, and I had to spend all the money up front before I could make the application for a rent increase. The rules of the day were, if I spent this amount of money, the money would be returned to me and my family in monthly increments in the form of a rent increase. Now I have already spent all the money. I cannot not do it; it is done. The money is gone, and it is all the money I had, plus \$30,000 I did not have.

Ms Harrington: I understood you to say at the very end that by putting your rents back to December you had lost a certain amount.

Mr Taylor: Let me explain that to you.

Ms Harrington: Yes, that is what I wanted to ask.

Mr Taylor: The way it works, with this legislation, is that if the increase date was after October 1, then the capital cost improvements that you had done would not be recognized. So mine were not recognized because my increase date was December, although the work was done and finished in August, before that date. But you see, as I say, I am not a paper-type guy. I have got to give the guy in apartment 102 his increase in November. The guy next

door is the month after. I had them every month of the year. I could not make them all January, because I could not bring forward the guy whose rent increase was due in December, so I put everybody back.

Ms Harrington: You did that several years ago?

Mr Taylor: When I got the building.

Ms Harrington: Okay. How much did you say you lost by doing that?

Mr Taylor: Oh, I have no idea. I lost some money by it, but I made it easier for myself. In effect I lost \$180,000 by it. If I had not done it, it would have gone through. How can you make fairness out of that? If I had not done that to make it easier for the tenants, your government would have recognized my costs and given me back my \$180,000. But because I made it easier for the tenants at my expense, you shafted me—\$180,000 down the drain, all the money I have. I have worked all my life in this city; I am no offshore investor buying a building last year and flipping it next year.

Ms Harrington: I know.

Mr Taylor: Thirteen years I have had the building, the only one I have.

Ms Harrington: I understand.

The Chair: Mr Mammoliti, any questions.

Mr Mammoliti: No, thank you.

Ms Poole: How about some answers?

Mr Abel: Just as a brief comment, I would like to thank you for taking time out to come in and share your concerns with us. Most of your concerns, I guess, result from Bill 4, and we are trying to deal with Bill 121. Because of your experiences, could you offer this committee anything that you think would help?

Mr Taylor: Yes. In Bill 121, you should recognize anyone who did the work before you passed this legislation, anybody who did the work and paid for the work before you came into power. It should be worked out under the old rules, not some new rules that you have come up with. I worked under the old rules when the government of the day said, "If you do this, we'll give you the money back."

I did it, and now you say, "We'll not give it to you." What you have done is a kind of sting operation. One party has persuaded me to put my money into the building, then has gone out of power. One party says, "We'll give you the money back," and as soon as I get the money in, another party comes in and says: "Gotcha. You're not getting the money back." Now, that just ain't cricket.

Mr Abel: It certainly was not the intent to say, "We gotcha." We are trying to deal with a very delicate issue. We are trying to find a happy medium between landlords and tenants, and, believe me, it is very difficult. Any suggestions you would like to make, I would suggest you put them in writing and send them to the minister. We would be more than happy to give them some consideration.

Mr Taylor: I wrote several times. I never got an answer.

Mr Tilson: On a point of order, Mr Chair: Mr Abel made the comment that Mr Taylor is not really dealing

with Bill 121. He is dealing with Bill 4. That is not quite true, because there is a transitional section.

Mr Abel: I said some of his concerns were focused on Bill 4 and then we got back on to Bill 121.

Mr Tilson: I submit that the impression being left is that his comments deal with Bill 4, when in fact Mr Taylor has asked what this government is going to do. In other words, is the transitional section that is being referred to in Bill 121 going to adequately address the Mr Taylors of this province? Mr Taylor is saying no, so I submit that Mr Abel is not quite correct in his comments, that in fact the witness is right on topic.

1700

The Chair: It is an interesting point.

Mr Mammoliti: Can I ask Mr Taylor to send us a copy of the letters that he did send to the ministry?

The Chair: You will have to ask Mr Taylor.

Mr Taylor: The minister has got them.

Mr Mammoliti: I am asking you if you can perhaps give us a copy.

Mr Taylor: I have not got them with me, but I can get you a copy, sure. Can I say one more thing?

The Chair: Certainly, Mr Taylor, quickly.

Mr Taylor: Do you realize now, with your Bill 121, somebody in my position, I have got a building that is in perfect shape, because I retired as a construction man four years ago and now I have got it all fixed up. It is 100%. We have got a security system. We have got everything. Everything is just perfect. I can reapply and I can possibly get 6%, 3% in one year and 3% in the other year, but then I cannot do anything, because it is all done. I do not need any new fridges. I do not need stoves. I do not need kitchens. I do not need windows. I have got them all. I have paid for them all myself, so now I cannot go and do it. If I had not done it, I could get the money.

Ms Harrington: You can use the work you have already done.

Mr Taylor: To get 6%, which is nowhere near what I was going to get.

The Chair: Mr Taylor, thank you very much for your presentation.

TOM FURR

The Chair: The next presenter is Tom Furr. Tom, we will be using the same procedure. You have 15 minutes and you can withhold some of your time for questions and answers from the committee if you wish.

Mr Furr: I want to thank you for affording me this time. I am tenant at 2265 Victoria Park. I am on the tenants' association there. I am also one of the organizers of the Scarborough Tenants Alliance and I am primarily here to endorse the paper they delivered to you yesterday.

I have been sitting here for some time for the last two days and I have heard some comments that are very upsetting and I wanted to address those. There are so many things to address that it is difficult.

My first comment on the legislation is a similar comment that I have heard. I think it is trash, and that is the

same comment we got from our MPP about our blue paper.

I sit here and I listen to Mr Taylor and I listen to the lady who was before him, I guess it was Marg Kranjac, and I can sympathize with them in their position. We did have concerns that some of the older buildings require a great deal of work and that this would not allow them the funds to pay for that.

One of our suggestions was, rather than giving all landlords an additional 2% a year on top of the inflation component, to put that into a province-wide capital reserve fund so that those smaller landlords or the older buildings that need a lot of work will get that work done. It is senseless to keep tossing all landlords 2% extra each year if they do not need it. A newer building does not necessarily need it. We found that out in 1986, and you are making the same mistake twice.

In 1986 you gave them their inflation component plus 2% plus 2% plus 2% plus 2%. It has been compounding every single year. That 2% is now somewhere about 7%. That 7% on average rents is between \$60 and \$70 a month. That was not spent in my building. That was not spent in most other buildings in Scarborough. It is tossed away, and yet every single month, even when that bill is scrapped, we are still going to be paying that \$70 a month, and any increases on top compound that.

If that had been put into a capital reserve fund in 1986, there would be plenty of money available. Now you are making the same mistake twice. You are giving all landlords 2%, 2%, 2%, regardless of whether they need it or not. If that was put into a capital reserve fund, the smaller landlords with older buildings would have the money to spend.

I live in a 35-year-old building with 69 units. We were inquiring about converting it to a co-op and we were told by the Ministry of Housing that it requires \$2 million of work and it probably would not be worth while doing it.

This does not allow my landlord to get \$2 million to do the capital expenditures. If there was a province-wide capital reserve fund, all of these landlords with older buildings would have access to the funds to do the repairs. Fine. A newer building will be paying it into the capital reserve fund now, but there will be money 15 years down the road when the newer building needs the money. I think that is the fairest way, so that tenants' rents do not keep going up above inflation.

I know Mr Tilson has thrown out some figures from the CMHC saying that was not the case, but they have. The CMHC figures do not include the 150,000 units that are still in a backlog in the rent review system. When you factor them in, they do go up beyond inflation, and we also have to recognize that the inflation for property management is not the same as the standard inflation rate because their costs are slightly different. It is a little bit less than the inflation rate. So I think that before you start tossing figures out into the committee, you should at least take the trouble to get the right figures and include the 150,000 units that are still in a backlog.

The 800 tenants at Tuxedo Court who have just gone through three rent increases over 20% in the last three

months because they were backlogged are not in those CMHC figures. For every landlord you can drag up here crying, "I'm losing money," I can bring you 1,000 tenants who are crying. They are not only losing their pension funds; they cannot put food on their tables and they cannot find a place to live.

When I met with Michael Harris about two weeks ago, his idea to supplement these tenants' incomes is just ludicrous. It is too expensive, and that is a Conservative's answer to the problem.

There is a fair solution, and it is one of the best solutions I can think of and the Scarborough Tenants Alliance can think of, and it is in use today. Any co-op, any condominium corporation, has to have a reserve fund. If the reserve fund was there and the money was only used for necessary capital expenditures, we would have the money to do the repairs. This legislation is just a retooled RRRA and it does not give the tenants any real protection from above-increase costs. It does not protect them in any way that we have been asking for for years on end. That is the one idea.

The other thing we are looking at is costs no longer borne. We keep paying these increases for these capital expenditures, and we are paying some of these 10 times over. They never come out of the rent, and these are for expenditures done 10 years ago.

It also does not afford us protection against landlords who commit fraud, and landlords do commit fraud. You had better start admitting it now. I can demonstrate to you that landlords—as a matter of fact, I have complained to the Ministry of Housing, and it is almost impossible to get anything done. For normal civil proceedings, a person would have eight years to prosecute somebody or to go to court. Under this legislation and the old legislation, it was cut off at one year. That gives you no time for anything.

We are just being shafted by the same legislation again, and the older buildings are not going to be kept up. The repairs are not going to be done. You know, this is the same trash we had before, and we all know it is trash. The Liberal government knows it is trash. They introduced it, and it has caused nothing but headaches since.

The common complaint we get from tenants is, "Who do we trust?" Bob Rae got up in front of us last September and said when he won the election: "We've got to earn their trust. We've got to demonstrate some integrity." Well, this is not what you promised us. The comments I am getting from tenants are general: "Who do we trust? Do we trust these guys over here? Do we trust you people over here?" There is no one to trust. You have all betrayed us and you have left the whole housing market in a shambles.

There are simple things that you could have brought in and you did not. There were studies done on it. The best one was the capital reserve fund. Those tenants who have had problems and had their rents go up should have a chance to go after costs no longer borne, not just operating costs and property taxes, but costs for painting done 10 years ago that have been paid for—more than paid for—costs for repairs that were never done, and I can demonstrate several to you. But right now, we have no recourse

to go back and say, "This was garbage," because the recourse ends at one year after the increase date.

The whole system is screwed up, and this is not going to work. There is no protection for tenants when a building is flipped. The building I live in was sold in December 1989. The purchaser went bankrupt before the NDP even took power, and he owes us a lot of money. He owes tenants at 1617 Victoria Park a lot of money, he owes tenants at 1827 Victoria Park a lot of money, and we cannot get it. We have not been paid interest in two years. We have not been paid our rental overpayments that he owed us, because he went to rent review, got an increase, and we appealed it and our rent was reduced. That money is lost.

There is no protection whatsoever. You are going to use the same bureaucrats who ignored the RRRA and refused to enforce the RRRA to enforce this trash, and we are going to be just as far behind. We have been telling you time and time and time again that the bureaucrats are not even enforcing the legislation that we have. They are refusing to. If you go to the investigations branch and try to lay a complaint, they make it impossible. They turn you away. You have to go to your MPP screaming and shouting and threatening to go to the press before they will even investigate.

The landlord at 3434 Eglinton Avenue East is charging key money. He is giving people notices for rent that is above guideline, and if you complain about it, "Well, it's not in our mandate, and if you didn't pay it, it's not an illegal rent." You are in a catch-22 situation.

1710

You have got to revamp the whole system. The easiest way is one increase based on inflation, a capital reserve fund and get rid of the bureaucrats, because they are the worst thing in the system.

In my building, we have had work orders that have been outstanding since February 1990. We had a hearing just recently to suspend our landlord's increase because the repairs have not been done and the city of Scarborough dropped the work order. The repairs are still not done. They say it is substantially completed, and you know they do not want to cost the landlords an increase, but now we have no way to see that the repairs are done.

The whole system is just screwed up, and this is not the answer. It is not the answer to Mr Taylor's problem, it is not the answer to Mrs Kranjac's problem, and it is not the answer to the tenants' problems. You have not addressed any of those problems.

You are talking about hearings. The old hearings were a waste. There were no transcripts of them, so you had no records and you could not go to a judge and appeal them. You could not get somebody charged with perjury because there were no transcripts. Now you are taking even the hearing away, and the notice period for a hearing is so short that no tenant is going to have time to file. Tenants work. We do not work full-time at rent review. That is what we have had to do in the past and we do not want to continue to do.

Everything I read in this is RRRA all over again. I do not want to spend another two years of my life butting my head against the system so that I can get the repairs done. I

am tired of tenants coming to me saying, "I can't get these repairs done." A friend of mine had a wall collapse on him in his apartment last year, a wall we had been trying to get fixed for nine months. I am tired of that. Tenants are being hurt by the thousands, either physically or financially, and you have not addressed that in any way, shape or form.

That is all I really have to say. If you have questions, I will be glad to answer them for you.

The Chair: We have time for one short question from each party.

Mr Mahoney: How would you feel about taking certain costs, such as either property taxes or utilities, items that are generated by public policy—they could be hydro; they could be water costs; they could be municipal taxes—right out of the formula for determining rents and having them billed, in some fashion, directly to the tenant?

Mr Furr: They are already in the rents now.

Mr Mahoney: I know. I am asking about taking them out.

Mr Furr: The billing would be too impossible, and it is already built into the system, so as the costs go up, the landlord can recoup those costs. I understand the biggest problem is in property taxes, because they do jump in large jumps and cannot be totally recouped in the current system.

But the whole idea of property taxes for apartments—my unit is taxed almost the same as a house in Scarborough. They are overtaxed as it is now. If they were taxed proportionately to the services that they give, it would not be a problem. I still think they should be in the fixed guideline. As they increase, the guideline reflects that on the three-year sliding average, and it would be less complex than billing tenants individually.

Mr Duignan: Just very quickly, would you like to see a capital reserve established as a province-wide fund or a fund directed at a particular building?

Mr Furr: It has got to be a province-wide fund, because as Mr Taylor mentioned, a 40-year-old building requires more repairs than a 5-year-old building. If they are all kicking into the province-wide fund, the funds are there so the 40-year-old buildings get repaired. As it goes on, 15 years from now, when the newer buildings require repairs, the older buildings that have been rebuilt will still be kicking in.

The province-wide fund is the only way. A capital reserve fund for a 69-unit apartment that requires \$2 million of repairs—you would have to raise the rents to \$1,800 to finance that, but if you had a pool, it would even out and the money would be there.

Mr Tilson: I have spoken out against the reserve fund. I am always interested to hear people who are in favour of it, but I would just like you to respond some more. You talked about condominiums. Of course, the reserve funds with condominiums start when they are legally created and they are continually built up and then they are replenished.

In the situation in Ontario, we have buildings that are 20 or more years old, large percentages of them. If you start now with reserve funds and asking landlords to completely set it up, they would be nickel-and-diming. There would simply not be enough money to do that, whether

they are large buildings or small buildings. Certainly when you start talking about roofs and garages and boilers and parking lots and concrete restoration, it is simply an impractical issue.

There is the legal and the income tax issue that has been talked about in the past. It is simply going to create too many nightmares. Time does not permit—

Mr Furr: Too many nightmares for you, but—

Mr Tilson: No, not for me, sir, but with respect to our law, the whole issue of deducting things and not deducting things; the whole income tax and legal aspect of it. I agree that the reserve fund has worked with the condominium situation, and if there was a way of implementing it in the same way, it is possible, but it is not possible the way you are putting it forward.

The Chair: Thanks for your presentation.

DAVID HURST

The Chair: The next presenter is David Hurst.

Mr Hurst: Mr Chairman, I have asked Debbie Deller to hand out a letter I received from Bob Rae back on January 11, and also a letter that I sent to the same committee dated February 7. I have asked her to withhold the letter that I am reading from in order that I can have the attention of the committee. It will be distributed after it has been read. I like attentiveness. I spent a long time composing these letters.

"Dear Mr Chairman:

"I have reconstructed a 19-unit apartment building that was originally built in 1876. The building now is virtually brand-new. The property has been declared a historical site and has been designated a 'protected property' by the Ontario Heritage Foundation," which is under the Ministry of Culture and Communications. "I have recently invested over \$650,000 in the renovation-restoration of the interior, and I attach with this submission a letter dated February 7, 1991, which was presented to this same committee during the public hearings on Bill 4 and was subsequently published in Hansard a few months ago." I believe it was read in the House by Mr Tilson, as I did not have an opportunity to present to the committee that letter. "I also submit to you a letter from the Premier, dated January 11, 1991, which states, 'For long-term rent control legislation, options will have to be considered for some mechanisms to recognize legitimate capital expenditure.'

"Virtually nothing has been considered by this NDP government to recognize legitimate capital expenditure and I have been betrayed by the new government—I have lost control of my property rights. I have been denied the right to earn a reasonable return on my investment in this great land of opportunity and democratic province of Ontario. Yes, I am cynical and bitter.

"A measly 3% per annum increase for two years only on the existing rental. What impact does this have on my \$650,000 investment? Virtually nothing, and from a logical standpoint, what relationship is there between the \$650,000 capital expenditure and the existing rental income? None whatsoever. You may ask, 'Why did you invest so much money on the interior of this building?'

"The answer is very simple—the last interior renovation was completed in 1929, long before most of us here today were born. What is the answer to my predicament?

1720

"I believe it is fair and reasonable that a historically designated heritage property, which has undergone total restoration and renovation, should be exempted from rent control for 5 years from the date of completion of the work. Currently the building is totally vacant"—we are just completing the renovation-restoration—"and as previously stated, virtually brand-new construction. Due to the fact the building is empty, there are no existing tenants who would be subjected to any rental increases as with new buildings, and the five-year 'rent-control free' period would coincide with the new government's position on new construction. Do you not believe that we should be encouraged to preserve our historical heritage properties?

"I should also like to add that although I received provincial grants for the exterior restoration, my total investment in this building is in excess of 100% of the building value. Therefore, I again emphasize the point this is virtually a new building.

"Perhaps I should have taken the advice of my lawyer in the latter part of 1990 in that I cease and terminate all construction, but I had no choice. The building was in poor condition and a number of units were empty and no new tenants would move in because of the condition.

"I realize my case is extreme but I could be typical for a historical property and I strongly urge this committee to convince the government to enact further amendments to the legislation for reasonable and fair treatment of rental on the restoration and reconstruction of historically designated properties.

"This amendment to the legislation could prove to be extremely positive as the owners of properties with 'historical significance' and in need of major restoration and repair would be encouraged to seek designation with their respective LACAC group and the Heritage Foundation which, obviously, would preserve our heritage properties such as the Bellevue Terrace"—my property.

"Thank you for the time allotment on this submission."

I have also carboned our new Minister of Housing, Evelyn Gigantes, Karen Haslam, the new Minister of Culture and Communications, and Bob Rae and Richard Alway, who is the chairman of the Ontario Heritage Foundation.

Mr Turnbull: I noted in the Globe and Mail that the Premier, in reshuffling his cabinet, said he wanted to make sure that he got the co-operation of private business and that it be a partnership between them. Is there anything in this legislation which would induce private investors to want to invest in this province in residential property?

Mr Hurst: Nothing that I can see, but I look at my property as my problem. I have really concentrated my submission on what my problem is. I have not looked at the overall impact of Bill 4 and Bill 121. I am really concentrating on my problem.

Mr Turnbull: You said that your investment was more than 100% of the value.

Mr Hurst: Absolutely.

Mr Turnbull: So I presume you are basing that on the value based upon the rents that are now legally obtainable.

Mr Hurst: Absolutely.

Mr Turnbull: So, in other words, you have just thrown your money out of the window in some respects.

Mr Hurst: I feel that the NDP government has stolen \$650,000 out of my pocket, and I could lose my house because that is the only area I could finance to put the money in the building. That is what has happened to me.

Mr Turnbull: Earlier today, we had a witness who suggested that if any private individual owns a property and cannot make money on it, it is just fine if he goes bankrupt or has to sell it as a loss. How do you respond to that?

Mr Hurst: I really think that is the underlying intent of the NDP, quite frankly. I do not think they give a damn about me or any individual. I think they would like to get a lot of these properties back with a dollar down.

Mr Turnbull: Of course Bob Rae actually said prior to the election, but we were not paying enough attention to it, that he really felt they should control rents and drive them down, and if the private sector squawked, that was fine.

Mr Hurst: I think Mr Rae should have come out and stated that if he got in, there should be no more rents paid in Ontario. I think he would have got more of a majority. If all tenants in Ontario were told they did not have to pay any rents, do you think they all would have voted for him? Of course they would have. He would have got more of a majority.

Mr Turnbull: Practically, how would you proceed from here? We have this bill before us and realistically, I have to tell you, while we on this side of the House may shout that this is unjust, the bill is going to go through.

Mr Hurst: Oh, absolutely. They have a majority. What can you do about it?

Mr Turnbull: What would you suggest we concentrate on by way of items that could help?

Mr Hurst: I certainly would like to see them concentrate on preserving historical properties.

Mr Mahoney: Mr Hurst, can you give me some indication of what kind of homework you did when you bought the building and you looked at \$650,000 in renovation requirements? The building would have to stay empty for a certain period of time. I assume you did a cash-flow projection. You looked at what market rent you would be able to obtain for each unit at the end of the day when the work was done. Did you do a projection of what your maximum rents could be, what percentage increase you would get each year, and therefore how many years it would take you to amortize the \$650,000 debt—I assume it is a debt—

Mr Hurst: It is a debt.

Mr Mahoney: —that you are carrying and how long it was going to take you? You had a business plan. Can you tell us a bit about all that?

Mr Hurst: When I received my letter from Bob Rae I thought that major restorations and renovations were going to be covered in the legislation, but the 3% per annum does not cover even a fee for a rent review consultant going in and getting a rental increase. My existing rental is \$180,000 and if you multiply that by 3%, that is a \$5,400 increase. That might cover a rent review consultant's fee for going to apply for the increase.

To answer your question, I bought this building in 1977 or 1978. I have tried my best to keep the building in a good state of repair virtually ever since I have owned it and it has been extremely difficult. Along with the provincial grant from the Ontario Heritage Foundation, we did restore the outside and it has been an ongoing restoration project for about eight years since it was historically designated.

Mr Mahoney: How much was the grant?

Mr Hurst: There was a \$55,000 Ontario Heritage Foundation grant and \$20,000 was another grant from one of the provincial—I just cannot recall what it was.

Mr Mahoney: That is part of the \$650,000?

Mr Hurst: Oh, no. That is money long gone. The \$650,000 is all my dough.

Mr Mahoney: All your dough.

Mr Hurst: It is all my money.

Mr Mahoney: What I am trying to get a handle on here, somebody might say: "Well, the place is empty and you're going to rent it out. You can set your rents at a higher rate and therefore recover your money." I am trying to anticipate what the reaction might be. Obviously you can only set your rates at what the market will bear.

Mr Hurst: Right.

Mr Mahoney: So you must have looked at what your market rent would be and how many years it would take you, under reasonable circumstances, to—

Mr Hurst: Absolutely. I think I know your question. My property management people told me that I probably could get between \$1,000 and \$1,100 per month rent for these restored apartments in this elegant, old, glamorous building in downtown Belleville. There seems to be quite a demand for people getting back to 11.5-foot ceilings and we have basically restored the building, but at this point in time all I am entitled to charge is what was charged previously.

Mr Mahoney: Oh, I see.

Ms Poole: They had been previously rented.

Mr Mahoney: Because they were previously rented and they have just been moved out for renovations.

Mr Hurst: Yes, absolutely. That is what has happened.

Mr Mahoney: Any other buildings you know like this?

Mr Hurst: Not that I am familiar with.

Ms Harrington: Yours is certainly not an ordinary case.

Mr Hurst: No, it is an extreme case.

Ms Harrington: Yes, and I do agree with you that this legislation is not meant to fit this particular situation,

although it is obviously a place to live and that is why this legislation at this point covers it.

I would like to see—because you have a designation as an historical place—if, working with the other ministry, there is any other way to deal with this. I do feel this is an extreme situation, because this legislation was not meant to deal with complete renovations changing the whole nature of the building. Our legislation is trying to keep the buildings the same. You are just entirely the opposite and that is why it is hitting you so hard. Following up from what Mr Mahoney was asking, what were the rents the last time you rented?

Mr Hurst: The rents were in the range of \$625 to \$650, and because of the rental increase from last year to this year, I am entitled to charge in the range of \$780 to \$790 per month, and that is what we are going to get when we go to market with the building.

Ms Harrington: Has it sat idle with no one in it for longer than you had hoped?

Mr Hurst: No, we are just completing. We had an open house about three weeks ago at which I invited Mr David Cooke and Mr Bob Rae, but they could not make it. We had our open house presentation of the building to the local community. We had the mayor there with a ribbon-cutting ceremony and we have two furnished model suites. It is quite glamorous; it is quite nice. We have 11 applications in right now for occupants. It is only 19 suites, so we should have it totally rented out by September 1.

The Chair: Mr Hurst, thank you for your presentation.

Mr Hurst: Thank you for your time.

1730

STEVE MUNRO

The Chair: The last presenter of the day is Steve Munro.

Mr Munro: In contrast probably to several of the previous speakers, I want to speak about some of the nuts and bolts of the rent control bill, rather than railing against it or just gushing on against it or for it.

I appear as a tenant of the Rosedale East apartments which, despite their name, are actually located near Broadview and Danforth avenues in the city of Toronto. My experience with the rent review system stems from my role as president of the tenants' association in those buildings during the period following Cadillac Fairview's sale of our complex to the present landlord. I have since retired from the association's board and speak today on my own behalf.

In general, I support Bill 121, which is a long-overdue simplification and tightening of the rent review process. This will protect tenants both by limiting the grounds for rent increases above the guideline and by reducing the complexity of the rules governing applications.

Although the implementation of this act is some months away, I urge the government to carry the same clarity of purpose into the regulations and administrative procedures so that the philosophy behind the bill is preserved. Many of our problems with rent review arose from

poorly drafted regulations or from conflicts between the meaning of the act, the regulations and the administrative guidelines.

There are certain aspects of the bill which I particularly applaud. These are the denial of financial loss as a justification for rent increase; subsection 13(3), which prevents the awarding of an increase on grounds for which a landlord did not apply, and section 19, which prevents a landlord from collecting an increase above the guideline until it is actually approved.

I wish to address in detail three issues where I feel amendments may be in order. The first appears to be a small inconsistency, while the others have substantial implications.

The first is the calendar effect on rent increases. When a landlord takes the guideline increase, the percentage which applies to each tenant's rent is the guideline value as of the renewal date. However, if a landlord applies for an increase above the guideline, subsections 20(2) and 22(4) provide that the guideline applicable to all units will be that in effect as of the earliest applied-for increase.

This means, for example, that an application covering the period from July 1992 to June 1993 will use the July 1992 guideline as its basis for renewals up to June 1993, even though the guideline may have changed by that time. Therefore, the guideline used for the increase will be different depending on whether or not a landlord applies for an increase and whether or not a specific unit's renewal date falls in the same calendar year as the earliest date in the application. In this example, a lease renewing in March 1993 would use the 1992 guideline if the landlord applied, but the 1993 guideline otherwise.

Was this the intent of the legislation? The existing rent review process uses the guideline in effect at each unit's renewal date rather than the one in effect at the earliest renewal for the complex.

The major thing I want to talk about is the charges for separate services. Subsection 45(1) provides that separate charges may be added or dropped by agreement of the landlord and tenant. By contrast, section 18 requires that a tenant give consent to a new or additional service. Charging for additional services which may not actually be required or wanted, and in particular for parking, has been a common abuse under the old act.

I believe subsection 45(1) should be amended to give a tenant the right to discontinue an additional service without requiring the landlord's consent. Similarly, section 31 should be amended to prohibit landlords from requiring tenants to contract for separate services as a condition of tenancy. Such changes will eliminate the possibility of artificial rent inflation by the creation of separate charges to which new tenants would be made subject even though existing tenants are protected by section 18.

A related issue is the need to define what constitutes a "separate service," and whether a tenant can request that it be severed from the basic services provided with a unit. For example, if a building includes parking with the base rent rather than as a separate charge, should a tenant have the right to discontinue an unneeded parking space, and how would a value be placed on this service? This issue is

particularly applicable to new buildings because there may be a temptation for landlords to bundle as many services as possible into the basic unit rent to preclude the tenants' opportunity to avoid those services which they do not require.

There are two fundamentally different types of services for which separate charges may be paid. One, such as parking, is a service of the complex as a whole whose cost can reasonably be expected to rise in proportion to the building's overall costs. Such charges can reasonably be inflated each year by the guideline plus awarded increases, if any.

The other type of cost is a direct pass-through to the tenant of a service purchased in bulk by the landlord, such as cable television. Why should the charge for such a service be tied to the building's overall operating and capital costs rather than to the landlord's actual cost? This can be argued equally cogently from the landlord's point of view, because a separate service such as cable is not among the costs listed in section 14 as being eligible for "extraordinary" increases.

In dealing with "extraordinary" changes in cost, sections 14 and 24 permit applications by landlords or tenants for increases or decreases in rents when the costs of municipal taxes, hydro, water or heating rise or fall by more than one and a half times the corresponding operating cost index. Further, section 105 allows a municipality to make application for rent reduction following a reassessment of property.

While the intent of section 24, which is the section dealing with reductions, is clear, the wording is not. The section speaks of a "decrease" in a cost such as hydro, when the real intent of the section may be to deal with cases where a cost has not risen as much as the provincially determined rate for that category. In other words, the cost may go down in inflated dollars while it still goes up in real dollars. The wording of this section should be clarified so that it does not require an absolute decline in cost to trigger a rent reduction.

It would be difficult, if not impossible, for a tenant to learn how much a landlord paid for some utilities, as they are not all a matter of public record. The information should be available to tenants by their landlords on request.

Section 105 provides for an application by a municipality following reassessment, but there is no guarantee that such an application would actually be made. As long as the percentage change in the cost index for property tax is positive, any reduction in property tax should automatically qualify for an application by a tenant under section 24. In the unlikely event that the average tax rates fall, this may not be the case as the reduction due to a reassessment may be within the limits imposed by the 50% rule. Therefore, a tenant could be denied the benefit of a tax reduction if the municipality failed to apply under section 105.

While widespread tax cuts may seem farfetched, the situation could arise if separate indices were used for different parts of the province and several municipalities in the same region implemented reassessment plans in the same year. In any event, notification of the registrar by municipalities where tax reductions occur should be man-

datory rather than optional so that the onus of ensuring that rent reductions occur does not fall on the tenants.

An alternative scheme for dealing with property taxes may be to treat them as separate charges which rise or fall, as a pass-through cost such as cable television. This approach has the advantage of making the impact of municipal government policies directly obvious to tenants and avoiding the need for applications under sections 14 or 24 simply to deal with property tax changes. A fair mechanism would be needed for apportioning a complex's taxes to each unit based on both its floor space and its share of common facility taxes.

In conclusion, I believe that, overall, Bill 121 will work well in protecting tenants, giving landlords a reasonable income and simplifying the rent review process. I hope the matters I have raised here will be considered and incorporated in the final version of the legislation.

Mr Duignan: Thank you for coming here and making an excellent presentation and giving a couple of good, clear examples of how to tidy up the legislation a little bit. I quite like your idea of section 24 in relation to the property taxes. Hopefully, we could take a look at some amendments that way. I think it is really a good, clear and excellent example. Again, thank you for your presentation.

Mr Abel: I too would like to thank you for your well-thought-out presentation. It is just unfortunate that Mr Turnbull and Mr Mahoney were not here to benefit from your presentation. I certainly hope they will take time to read the written document. Certainly, you gave us all food for thought and I would like to thank you for that.

Mr Tilson: The issue with respect to separate charges, looking specifically at subsection 44(2): Should there be factors or guidelines in the legislation to assist a rent officer to declare what the maximum should or should not be? I guess I am looking for your comments as to how he or she is going to do that.

1740

Mr Munro: This has always been a problem, even in the old legislation, unless it was a clearly identified cost where the landlord bought newspapers or whatever and sold them to the tenants at a pass-through cost. We went through the same problem with our complex on parking charges, because the parking charges had got all out of whack over the years and then the new landlord started just basically picking figures out of the air. We had to go back to the oldest rent roll we could find, which was about eight years old, to get a historically valid parking charge.

Mr Tilson: Have you got any suggestions as examples—and I am sure the government will study this; hopefully it will—of what types of guidelines one should have?

Mr Munro: You have two different situations. One is in an existing building where, first of all, there will be an existing level of charges for whatever the existing separate service may be. It depends on how complicated you want to make the legislation, and of course, the whole intent is to try to simplify the process.

Mr Tilson: Surely we do not want to give the rent officer an unfettered right, which is what this legislation is doing.

Mr Munro: Yes, I will agree with you there, but the flip side of that is, say for example you were to attempt to tie the cost of a parking space to the cost of providing a parking space. That gets rather messy, figuring out what charges are parking-specific and what are the general costs of superintendents and that sort of thing. If you had to rebuild the parking garage because the concrete was falling, that is a parking charge, yet it could be argued that merely having a parking garage is a benefit to all tenants, even those who do not necessarily have a parking space. So I do not have a clear answer. It is definitely a question worth pursuing.

Mr Brown: I thought it was an intriguing presentation. One of the things that interested me in particular was your comments on municipal taxes. I see no reason that could not be applied to some other charges, such as hydro or water and a number of other charges. What would you think of that concept? I think it has several advantages; it probably has several disadvantages also. What it does do, though, is it makes the consumer very aware of the real charge, and that is what we are talking about, the real cost. It would not be subject to anything other than real cost.

Mr Munro: In the case of hydro, many buildings—certainly the one I live in—have individual unit metering. So the only hydro that appears as part of the rent is the common cost for lighting the building, running the elevators, the ventilation, that sort of thing, and that really has to just be spread through everybody, because you cannot tie it on a unit basis. Water there really is no way of individually metering. I suppose the distinction I am making is that it is very hard to tie it to how much one unit uses.

Mr Brown: But the landlord does that.

Mr Munro: The landlord does that through the rent. I suppose it is doable. Do you then replace the existing lease, which basically says, "Here's how much you pay for rent and here's how much you pay for parking," and maybe a couple of other things, with one that has about 10 different subcategories for each of the separately charged-for services?

Mr Brown: Would tenants find that worse or better? I mean the exact costs, the real costs. One of the complaints we have heard a lot is that we cannot get access to the actual numbers. These would be the actual numbers and they would be right there in front of everybody every month or at least once a year.

Mr Munro: I think probably if you were going to want to do something like that, the way to do it would be to set a cutoff in terms of percentage of total cost. In other words, you do not want pass-through costs of trivial amounts just because someone has come along and said, "We want to add this, we want to add that," because you are going to have a lease that is a mile long and it is going to be very onerous for the landlords to figure out how much they should charge each tenant.

The Chair: Time has expired. Thank you. That concludes our hearings for today, unless there are any motions.

Mr Tilson: I do not have a motion; it is a question with respect to the staff. Ms Poole and I have both indicated that we would have further questions of staff. That presentation really was not completed. I guess it is a question to the clerk.

The Chair: I have spoken to the clerk about it, and at the first available opportunity we are going to work through a lunch hour, I believe, or work through a dinner hour, but it will not be in this room.

Mr Tilson: And it will not be on a plane, I hope.

The Chair: It will not be on a plane and it will not be in this room.

Ms Poole: Might I suggest for your consideration—it does not have to be decided now—on Tuesday we are starting at 2 o'clock because of the fact that—

The Chair: I cannot come in any earlier than 2 o'clock on Tuesday.

Mr Brown: Just something for the committee to think about is that I also would like to have Ontario Hydro and people from its energy conservation and efficiency branch appear before us at some point. I do not know when. I am just flinging that out as a suggestion that members might find useful at this point, because I would like to understand what their program is in regard to residential buildings, what they can do, how this bill would affect them, just directly from what Ontario Hydro is doing today.

The Chair: Is there a consensus for that?

Mr Abel: Mr Brown did bring that up in the subcommittee meeting and I intended to speak to the committee members on Tuesday morning about that issue.

The Chair: The committee stands adjourned until Tuesday at 2 pm.

The committee adjourned at 1747.

CONTENTS

Thursday 1 August 1991

Rent Control Act, 1991, Bill 121 / Loi de 1991 sur le contrôle des loyers, projet de loi 121	G-1139
Concrete Restoration Association of Ontario	G-1139
860 Pharmacy Avenue Tenants' Association	G-1141
Robinwood Management Corp Ltd	G-1144
320 Lonsdale Road Tenants' Association	G-1145
Wall Property Management Inc	G-1147
Affordable Housing Action Group	G-1149
Landlord Self Help Centre	G-1151
Ontario Public Service Employees Union	G-1153
Tandem Realty Administration Inc	G-1156
Board of Trade of Metropolitan Toronto	G-1158
Investors Property Services	G-1161
800 Richmond Tenants Association	G-1165
Graydon Hall Manor Tenants Group	G-1167
El Mirador Apartments	G-1170
Highmark Properties	G-1172
Marg Kranjac	G-1174
47 Thorncliffe Park Drive Tenants' Association	G-1176
Harry Taylor	G-1178
Tom Furr	G-1180
David Hurst	G-1183
Steve Munro	G-1185
Adjournment	G-1187

STANDING COMMITTEE ON GENERAL GOVERNMENT

Chair: Mancini, Remo (Essex South L)

Vice-Chair: Brown, Michael A. (Algoma-Manitoulin L)

Abel, Donald (Wentworth North NDP)

Bisson, Gilles (Cochrane South NDP)

Drainville, Dennis (Victoria-Haliburton NDP)

Duignan, Noel (Halton North NDP)

Harrington, Margaret H. (Niagara Falls NDP)

Mammoliti, George (Yorkview NDP)

Murdoch, Bill (Grey PC)

O'Neill, Yvonne (Ottawa-Rideau L)

Scott, Ian G. (St George-St. David L)

Turnbull, David (York Mills PC)

Substitutions:

Mahoney, Steven W. (Mississauga West L) for Mrs Y. O'Neill

Poole, Dianne (Eglinton L) for Mr Scott

Tilson, David (Dufferin-Peel PC) for Mr B. Murdoch

Clerk: Deller, Deborah

Staff: Richmond, Jerry, Research Officer, Legislative Research Service

ON
16
23

Government
Publications



G-29 1991

G-29 1991

ISSN 1180-5218

Legislative Assembly of Ontario

First Session, 35th Parliament

Official Report of Debates (Hansard)

Tuesday 6 August 1991

Standing committee on general government

Rent Control Act, 1991

Assemblée législative de l'Ontario

Première session, 35^e législature

Journal des débats (Hansard)

Le mardi 6 août 1991

Comité permanent des affaires gouvernementales

Loi de 1991 sur le contrôle
des loyers



Chair: Remo Mancini
Clerk: Deborah Deller

Président : Remo Mancini
Greffier : Deborah Deller

Published by the Legislative Assembly of Ontario
Editor of Debates: Don Cameron



Publié par l'Assemblée législative de l'Ontario
Éditeur des débats : Don Cameron

Table of Contents

Table of Contents for proceedings reported in this issue appears at the back, together with a list of committee members and other members taking part.

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at (416) 325-7400.

Languages in Hansard

Hansard reports all debates in English or French as spoken by the participants. It does not translate remarks made in either language. Headings and tables of contents reflect language use.

Subscriptions

Subscription information may be obtained from: Sessional Subscription Service, Publications Ontario, Ministry of Government Services, 5th Floor, 880 Bay Street, Toronto, Ontario, M7A 1N8. Phone (416) 326-5310, 326-5311 or toll-free 1 (800) 668-9938.

Table des matières

La table des matières des séances rapportées dans ce numéro se trouve à l'arrière de ce fascicule, ainsi qu'une liste des membres du comité et des autres députés ayant participé.

Il existe un index cumulatif des numéros précédents. Les renseignements qu'il contient sont à votre disposition par téléphone auprès des employés de l'index du Journal des débats au (416) 325-7400.

Langues paraissant dans le Journal des débats

Le Journal des débats rapporte en anglais ou en français les débats, selon la langue utilisée par les participants. Les remarques faites en l'une ou l'autre langue ne sont pas traduites. La langue des en-têtes et de la table des matières reflète la langue utilisée.

Abonnements

Pour les abonnements, veuillez prendre contact avec le Service d'abonnement parlementaire, Publications Ontario, ministère des Services gouvernementaux, 5^e étage, 880, rue Bay, Toronto (Ontario) M7A 1N8. Par téléphone : (416) 326-5310, 326-5311 ou, sans frais : 1 (800) 668-9938.

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON GENERAL GOVERNMENT

Tuesday 6 August 1991

The committee met at 1402 in room 228.

RENT CONTROL ACT, 1991

LOI DE 1991 SUR LE CONTRÔLE DES LOYERS

Resuming consideration of Bill 121, An Act to revise the law related to Residential Rent Regulation.

Reprise du projet de loi 121, Loi révisant les lois relatives à la réglementation des loyers d'habitation.

The Chair: The standing committee on general government is called to order. The committee will continue its hearings on Bill 121, the government's rent control legislation. We have a full slate of presenters for this afternoon.

ONTARIO CHAMBER OF COMMERCE

The Chair: The first presentation will be made by the Ontario Chamber of Commerce. Would the presenters come forward and identify themselves for Hansard and for the benefit of members. The committee has allocated 15 minutes for your presentation. You may wish to retain some portion of that for questions and answers.

Ms Matthews: Thank you, Mr Chairman. My name is Linda Matthews. I am chairman of the board of the Ontario Chamber of Commerce, and with me this afternoon is Don Eastman, who chairs our economic policy committee. We thank you for the opportunity to appear this afternoon.

As most of the members are aware, the Ontario chamber represents 65,000 businesses in the province, and we do this through 167 local chambers and boards of trade. Our mandate covers small, medium and large business, and includes both tenants and landlords.

We appeared before this committee with respect to our concerns on Bill 4 in January, so the chamber's views on Bill 121 should not come as a surprise this afternoon. The Ontario chamber stands on the principle of freedom of enterprise.

I think this group would agree that one of the major stories of the 1980s was the collapse of the Iron Curtain. Most of those countries that were part of the Soviet bloc are in fact abandoning centrally planned economies and are now trying to harness the power of market forces in order to improve their countries' positions and economic position. The transition for them will be difficult and they will not all make it, but the point I am trying to make is that all they needed to convince themselves that the effort was worth it was to look at their performance over the past decades and that of the market-driven economies.

Some of the most important things we do as a society we do through the public sector. Education, health care, social assistance are all vital, but quality and affordability in these programs is only possible with a strong and vibrant market economy.

At the same time that one segment of the world has discovered the power and the potential of market forces,

we continue in Ontario to, shall we say, flog a horse that is already on its knees. We probably could call it naïveté rather than ignorance. Our joint economic naïveté has resulted in abuses to our market-driven economy, and this has seriously eroded our capacity to provide the standard of living and the quality of public service that we in this province expect. Unfortunately, by continually turning to government for regulation and control of the private sector, we inadvertently continue to add to the cost of doing business in this province, making our businesses less and less competitive and making the decision to do business in this province less and less attractive.

Government rent control is only one of many examples where we continue to damage the economy and to hurt, unfortunately, the very people we are trying to help.

I ask Mr Eastman to make some specific comments with respect to Bill 121.

Mr Eastman: The purpose of today's hearing is to examine the specifics of Bill 121, not the principles behind it.

What is the best way to strangle this part of the economy? With respect, the only good rent control is the dynamic, efficient rent control that is imposed not by the iron hand of government but by a market that is allowed to work. Renters should be permitted the opportunity of choosing between competing units in a world where vacancy rates are high enough to permit choice, and landlords should be forced by the market to compete on the basis of price and quality for tenants who, by virtue of a real vacancy rate, have real choices available to them.

We in the chamber have not seen the thorough economic analysis that should have accompanied this bill. I guess for us the concepts of thorough economic analysis and government rent control are mutually exclusive.

Economic analysis is not hard. All it requires is honestly putting yourself in the shoes of each of the players in the market and seriously working through the thought process. It can sometimes require several attempts, but it is basically a pretty simple process.

The consequences of Bill 121 should be obvious, and they are not pretty. First, put yourselves in the shoes of the person who may be considering new rental accommodation. If you build a new unit, you can charge whatever the market will bear for new units, but once that rent is struck, you are stuck with that base. Unless you have a bent for self-destruction, you will not build unless you are convinced that you will be able to charge rents that provide a comfortable return and also cover your concerns about future risks. This means that new construction will wait until a desperate shortage of rental units forces rent for new units up to the point where it provides not just good returns, but also generates a risk premium sufficient to cover all uncertainties about future legislation.

Next, try the shoes of someone who is currently an owner of rental accommodation. Let us first try and set aside the frustration at legislation that strips away a substantial portion of your property value without compensation, and simply look at future maintenance and upgrading decisions.

Under Bill 121, the more you do, the more you get penalized. The closest you can come to full cost recovery is to do as little as possible. If the units start to get a bit shabby and rundown, they can still be rented as long as vacancy rates remain low. Upgrading? Not likely. All that hassle for at best no return and at worst out-of-pocket losses? Incentives to upgrade the quality of existing rental units are non-existent.

How about the shoes of a first-time tenant? Choice of accommodation will be extremely restricted: either prohibitively expensive new units or very scarce older units with generally poor standards of maintenance.

Life for existing tenants is no bed of roses either. Basic safety and health maintenance is done; the rest seems to slip. Housekeeping of the public areas is less than it should be. Things like graffiti stay up longer than they should. You mention to the landlord that it would be nice to have a new stove and fridge. For some reason, the landlord is not very interested. You would like to move to nicer rental accommodation, but there does not seem to be any, unless you go new and very expensive. The closest thing to a viable alternative is to buy your own house or condominium unit, but you do not have the savings and you are not ready to make that kind of commitment. Blame the landlords again.

Let us summarize the economic story. Rental vacancy rates will remain near zero. The quality of existing rental housing stock will deteriorate. New construction of private rental accommodation will be slow, and the few units that are built will be expensive for the quality provided. Government will be increasingly called in to provide housing units to supplement a market that has been forced to fail. Resources that could and should have been used productively elsewhere in the economy will be sucked into a non-productive bureaucracy of government rent control.

1410

If you are interested in slowing the pace of strangulation of this important part of the economy, there must be better provision for cost recovery. Bill 121 does not make a reasonable attempt to recognize the legitimate expenses faced by landlords. It is irresponsibly restrictive on major repairs, on capital improvements and borrowing costs. The proposed cap even limits the ability to recover an exceptional increase in operating costs such as hydro and property taxes.

We have heard some concern that the objective of this government is the elimination of private rental accommodation and its complete replacement with public housing, and Bill 121, for some, is seen as a major step towards that objective. If that really is the objective of this government, there is a moral obligation to stand up and say so. We believe that few people in this province would accept that objective, and most would vehemently reject it.

If that is not the objective, then you have an equal responsibility to fundamentally rethink the role of government rent control in a market-driven economy. At a minimum the following changes should be made to Bill 121:

The capital expenses limit must be made more flexible by either increasing the percentage allowed or extending the amount of time allowed to recover costs.

Cost increases beyond a landlord's control, such as those for water, hydro, insurance and mortgage rates, must be permitted to flow through to tenants, as well as any rate decreases.

The provision for rent rollbacks in the event of inadequate maintenance should be reviewed. This type of revenue uncertainty seriously constrains access to capital markets.

The implications of Bill 121 actually run far beyond the rental accommodation market. The philosophy that it appears to reflect and its far-reaching economic naïveté provide a chilling message to the business community at large. That message, and its consistency with other messages from this government, is damaging investment intentions and job opportunities in this province.

We are not here to point fingers. There are multiple culprits in this ongoing economic disaster. We are here to try and stimulate a fresh look that uses the experience of the past decade to bring us to a more positive future.

Mr Tilson: The government has made it quite clear in its position as to what it intends for housing. Mr Rae, of course, said it during the famous newspaper interview that everybody quotes, and if you do not like that, the green paper has made it quite clear. On page 3 they state that after 1991 virtually all anticipated new rental housing will be social housing. In other words, that is all that is going to be built. They have made that statement, and that is clear. They intend to take over the housing industry. What effect will such a policy have on the investment confidence and on the quality of life of the tenant in this province?

Ms Matthews: Maybe I could respond to that, because I would like to relate two examples that were both given to me one week after Bill 4 passed into legislation. One of our board members, who happens to be one of the landlords I referred to in my opening remarks, was in the position of selling two of those buildings, and when Bill 4 passed, the prospective purchasers walked away. The other was also a board member of the Ontario chamber who is in the financial accounting business and has foreign clients with money to invest in this province; \$25 million was withdrawn that week as capital that had been available for investment in this province. So to answer your question with two examples, I think the implications are clear.

Ms Poole: Thank you for your presentation today, even though parts of it were quite chilling. Unfortunately, they may also prove to be quite realistic. I was interested in your comments about building new rental accommodation. You have pointed out some of the difficulties with the current government plan to promote new building. What would you recommend in its place for building new residential accommodation?

Ms Matthews: With respect to lengthening the time available?

Ms Poole: Yes. What would you recommend, that there be no rent controls placed on the building for 10 years after it was built?

Mr Eastman: I think you have to put that in the context of where you really believe the long-term future of rent controls is. If you want to have a rental accommodation market that is primarily privately based and provides the kinds of choices that are inherently available from a market system, then we have to start looking at ways of freeing that system up so it can start to work.

Ms Matthews: In other words, phasing out.

Mr Eastman: Yes. One of the first ways of doing it would be permanently—

The Chair: Order, please. Thank you. Sorry. Ms Harrington.

Ms Harrington: I would like to respond to some of the topics and questions you brought up. First of all, you asked, why rent regulation overall? It is consumer legislation. You know that obviously in life we have regulation, whether it is licensing our cars or environmental standards. That is part of the way we do business in this province.

You mentioned health and education. Health, education and housing are basic human rights recognized by the United Nations, and legislation and regulation of the housing market has been enforced under Conservatives and Liberals in this province, as you know, for many years. What was not in place was a good system of fair regulation. It was a system that was used and abused for many years and was not fair to protect the tenants.

Now you asked what our objective was in this legislation. We want a system that will work. We want a system that will protect tenants. We want a system that will encourage good housing, good standards of maintenance, and we want to work with landlords. As you know, about 85% of landlords—83% I believe it is—do not go to rent review every year. They can exist and maintain their buildings within the existing guidelines.

Ms Matthews: But there are fewer and fewer of them because they are getting out of that business.

The Chair: Thank you. The time has expired for this presentation. Sorry to cut you off in midstream, but I am under orders from the committee.

ANTHONY SELJAK, RICHARD HISSEY

The Chair: The next presenter is Anthony Seljak. Anthony, we will follow the same procedures. You have 15 minutes. You can withhold some time for questions. Please identify yourself and your guest.

Mr Seljak: Thank you. My name is Anthony Seljak, and my friend here is Richard Hissey. I and my family own an apartment building in Toronto consisting of 57 units. What I am going to address in the legislation put forth in Bill 121 is mainly section 17, regarding tenant consent to capital expenditures.

We have in our building, for example, appliances that are over 33 years old. The tenants in the building do not want new appliances because of the possibility the rents may increase by 1% or 2% above the yearly guideline. Unfortunately, this causes us to repair the appliances frequently at considerable cost. The tenants are satisfied with this situation since they do not have to pay for the many service calls that must be made.

Similarly, our single-pane steel windows, which are slightly warped from age and very energy-inefficient, cannot be replaced because the tenant association feels the windows are good enough, again mainly because most of the tenants do not want the rents increased at all. We just spent \$6,000 trying to recondition these windows, with very little success. However, we will not be able to replace them because the tenants do not think it necessary.

We recommend that this bill allow for an independent party, such as a building inspector, to determine if the repairs are necessary when the landlords and tenants cannot come to a common consensus on capital expenditures.

1420

Presently, this bill tells tenants not to allow any capital expenditures, as the landlord is responsible for the maintenance of the building no matter what the costs are. The tenants know they will not have to pay for any of the maintenance costs.

Since the majority of tenants do not want any improvements which they will have to pay for, this new law will result in a loss of jobs for tradespeople and a severe deterioration of the building stock in Toronto. We hope this law is adjusted so the necessary capital expenditures can be made and are not just left up to the tenants' discretion.

Now I would like to introduce Richard Hissey who would like to make other points regarding this bill.

Mr Hissey: I also am the landlord of one apartment building. It is the building at 250 Oakwood Avenue actually and has 24 suites. I would like to confine myself here to just four points. I believe the points I am making are practical suggestions. I realize I cannot come here and expect the committee to recommend that rent review be abolished. The government has a certain program. The points I am raising, I believe, could be implemented within the context of the program that is contemplated by the government.

I realize there are some reasons why the government has decided to embark on Bill 121. There were certain issues raised by tenants, such as unnecessary renovations: Why should tenants pay for improvements they did not need and did not want? There was the question about affordability, whether it was right for tenants to be forced out of their homes because the rent increase was more than they could afford. Also, there was the question of whether financing costs should be a reason for rent increases, because obviously it did not result in any improvement to the building.

The proposed legislation incorporates or seems to incorporate an idea from the previous legislation, that is, that of a guideline increase. The observation I wish to point out to the committee is that of course the new guideline calculation is somewhat different from what it was under the previous legislation.

Now a smaller portion of the rent control index is incorporated into the guideline, and although I really cannot comment because I do not have the statistical information available on the effect on other buildings, in the case of my own building, I must say I am going to find this very difficult to live with.

I did some accounting for the costs over the last few years. I find that between 1987 and 1990 my cost increases

for taxes, utilities and non-capital repairs were \$20,737, or over 30%. For the same period, the total compounded guideline increases were 14.5%. That is equivalent to \$20,313 on 1987 income, which is almost the difference.

The point is, though, that this includes the 1% supposedly available for profit and also the 1% supposedly available for the write-off of capital expenditures. So in my case I have used up all of the guideline increase in increases in costs and I have also had to subsidize it.

During the consultation process, I must say I did not myself hear of anything as to whether the guideline should be recalculated. I would like to have this question raised and dealt with by the committee, and one of my suggestions is that the method of calculating the guideline increase not be changed.

That is my first point, and really it leads on to my second point, because the idea, the philosophy behind a guideline, as I understand it, is that all apartment buildings will experience a certain increase in costs every year, so instead of every apartment building applying for rent review, there is a calculation made of what these common cost increases are and it is permitted to rise by a certain percentage to cover those cost increases.

Accompanying that, there is a provision in the proposed act for an increase based on extraordinary operating costs. Now the point I have to make here is that in the proposed legislation, the only categories under which the increase is permitted are for taxes and utilities, which of course are certainly beyond the control of the landlord. But my point is that there are certainly other cost categories that are equally beyond the landlord's control.

For example, if he were to have a fire in the building or something like this, he might have a very serious increase in his insurance costs. He has got no machinery in the proposed bill for getting an increase based on those increases in costs. There are also significant maintenance obligations in the bill, and if he gets an increase in maintenance costs, he apparently cannot pass that into the rent.

In the case of financing, financing costs are one of the most significant costs in the case of our industry, and these costs are apparently not the basis of any increase in rents. I feel quite concerned myself as to what is going to happen if there is a serious increase in interest rates in the future.

My third point is also something that is hidden in the bill. It is about the threshold for obtaining an increase based on capital expenditures. I do not know whether I should explain that, but it is my understanding of the legislation that is to be replaced that when a landlord applies for rent review, there is a threshold of 1% of the building income that must be passed before it is worth while for a landlord to apply.

To put it a different way, unless the increase in rent that is generated by his capital expenditure is more than 1% of his income, he cannot obtain an increase in rent beyond the guideline, because the guideline includes 1% for capital expenditures and when he applies for rent review, then the base upon which the increase is erected is 1% below the guideline.

In the new bill this is going to be doubled to 2%. Again, I must tell the committee I feel very discouraged by this. Even the old legislation was a difficult law to live with from the point of view of how much money has to be

spent. In the case of my own building, the amount of money I need to spend in order to generate a rent increase based on capital expenditures would be \$19,000, which is more than enough in a way, because under the new bill it would be \$38,000, which for me at least would be a small fortune.

I must say I do not know where I would obtain the money to finance any large capital expenditures. If I were to go to the bank and say, "I need \$37,000 and yet there will be no rent increase, even though I am spending this amount of money," I think it is very doubtful I would get the money.

My last point is about the cap. I will have to leave it to other presenters to discuss what the size of the cap should be or whether there should be a cap at all. As I said at the beginning, I do not want to get into areas that are really outside of that. The point I simply want to make here is that I noticed in the proposed legislation the cap is all-encompassing and it covers both capital expenditures and operating cost increases. So it would be extremely unfortunate for a landlord who both had to make capital expenditures and suffered from extraordinary operating cost increases within the year.

It seems to me that a more appropriate method of dealing with the situation would be to exempt extraordinary operating cost increases from the cap and also not include those increases when calculating the cap, if there is to be one at all, on increases generated by capital expenditures. That is my presentation.

1430

Mr Mammoliti: Thank you for coming down. I appreciate all the comments.

There are a number of things you have said and I disagree with most of them, to be honest with you. But when we talk about the caps, I am wondering whether you can elaborate. You say that you do not want to give your opinion on the caps, but in this particular case it may be important for us to hear that.

Mr Hissey: My opinion on the caps is that there should not be a cap at all. But I have to live with reality, and I realize the government has a certain program and that it was elected on the basis of a certain platform. What I am trying to do is make suggestions which could be followed within the context of the government program, and if there has to be a cap, I would still like my suggestions to be followed. I think if they were followed, first of all, then we would not get caught with extraordinary operating costs and capital expenditures both covered by the same cap.

Second, I suppose the result would be that the landlord could get an extra 1%.

Mr Tilson: The four socialists over there—is that to your right?—will answer most of your questions by saying that landlords in the past have ripped off the system long enough. They have made lots of money and they should have all kinds of money to pay for these various expenditures that you are talking about. In other words, as Mr Mammoliti said, they will simply say: "We disagree with what you are saying. You've made lots of money. Tough. You can squawk all you like." What is your response to that?

Mr Hissey: I do not believe that all of the expenditures experienced by landlords are predictable. I can understand the point that is being made. The point that is being made is, when somebody buys a building he should make some allowance for capital expenditures and things like this. However, having said that, there are some things which happen which cannot be predicted, an increase in taxes, for example, and should be incorporated in any rent review legislation.

Mr Brown: I am interested in your response to the chamber of commerce's brief that just preceded yours. They analysed what a landlord would do under Bill 121, and what they seem to be saying is that most landlords will do nothing. They will minimize the amount of money they spend on maintenance, minimize the amount of money they spend on capital, not because they are bad people but because there is no choice. Is that what you are telling us here today?

Mr Hissey: It is not what I said, but I certainly agree that that is what they would do. I entirely agree with that.

The Chair: Very good. Gentlemen, thank you for your presentation. We appreciate your coming before the committee.

RICH PARK INVESTMENTS LTD

The Chair: The next witness is Richpark Investments Ltd, Evelyn Parker. We will be following the same procedure. You have 15 minutes for your presentation and you can withhold some time for questions and answers. Please have a seat. Make yourself comfortable. You have the floor.

Mrs Parker: Ladies and gentlemen, thanks for allowing me to make some comments today.

The present government has held so many hearings and I have been to several. I have listened to a lot of the comments and I have listened to a lot of the problems that have been told to the government that the landlords are experiencing, and yet they have done nothing about it. They have not even acknowledged that there are any problems; in fact, when you speak to them, they say, "Oh, there is no problem. Landlords do not have problems"; but they do. Until the government recognizes this, everybody is going to have a problem, especially the future housing industry in Toronto and Ontario. It is going to be in extreme difficulties if they do not soon recognize that there are a lot of problems. The problems are not being recognized; they are not trying to do anything about them.

It is also notable that a lot of these landlords are senior citizens. Many of them are senior citizens who have saved up money in their life while they have worked. Most of them have been people who worked, like myself. They have not been on welfare. They have not been on unemployment pay. I have never collected any in my life. They have worked hard and saved up money and invested it. Now they are being penalized for what they did. It is a very controversial law. But instead of getting any understanding from the present government, we are being told to live with it.

This is what we have to look forward to with Bill 121. You cannot sell your property. There are no buyers. Nobody is investing in Ontario now. We tried to sell our buildings.

Nobody wants to buy them. After 16 years of inadequate allowances for repairs, there is nothing left to cover major expenditures that can happen in the future. There is absolutely nothing there, a fact which the government stubbornly refuses to acknowledge.

The rules are ever-increasing and ever-onerous. The paperwork is doubling every day. They said they were going to get rid of some of this paperwork and make it simpler. It is getting more complicated. It has not gotten simpler at all. If you have a neurotic tenant, he can call the municipality and get you into a whole hornet's nest of problems for no reason whatsoever. But it is all followed up with paperwork, and you have to deal with the paperwork that can take up to three or four months to clear because of somebody who is a little bit mental. We have gone through this, so I know what I am talking about.

We also have to look forward to paying GST. We have been given absolutely no allowance for GST, and yet we have to pay it. Everybody else can claim it back, but a landlord, no. We cannot claim it back.

If your building is smaller than seven units you get a bigger increase. Why? It is not logical that it is cheaper to run six units than to run seven or eight or 12. It costs the same amount of money to run. There is absolutely no difference in running, whatever size. The same cost is there. The GST is the same whatever.

My father taught me a very important lesson which I have remembered all my life. I found it invaluable in my experience, and to quote him, he always taught me to learn as much as I could, to work as hard as I could and to do the best I could, but to know my limitations. If you do not understand a job and you do not have the ability, then leave it to someone else. That is the best advice I could give this government. They are not doing that. I can only see failure in the present direction, particularly Bill 4 and Bill 121. They are both disgusting.

I would therefore request that before it is too late, some thought be given to some responsible and unbiased representatives of the present government spending some time gaining knowledge and a better understanding of the operation of the rental apartment industry, because I do not think they know anything about it. I think they owe this to the senior citizens of this province, and would like to request that the minister responsible for senior citizens' affairs be advised of my request, and that also the minister for seniors should look into the possibility of having the government held responsible for purchasing buildings when the owner cannot sell it and is no longer able to carry the burden of responsibility now imposed by the present government.

There should be equal protection for all citizens of this province, whether they happen to be in one category or another. A senior should have equal rights to any person, whether he is a tenant or not.

What is a tenant, anyway? A tenant can be anybody. There are many tenants who do not need any help from the government, and there are many landlords who do not deserve or need government interference in their operation. I have never needed it personally. I have always looked after my tenants. I have never gouged them or whatever you call these things. The government would be better occupied

and would waste far less of the taxpayers' money if it subsidized the people who need help and let the law stop any tenant abuse that could happen, because that is what the law is there for. This way, they could run the province and save a lot of money and stop harassing landlords the way they are.

Another point of considerable neglect on the part of the ministry is the cases still waiting for decisions from rent review. We are still waiting for a decision for December 1989, for which there is no reason for a delay. The work covered by this application was done in 1988. We are approaching the fourth year of waiting, and this is simply not an acceptable or justified situation. It is time for the Ministry of Housing to face reality. The above situation is not warranted or excusable, and I would ask at this time that the ministry either put through a decision on these orders it is holding or issue a very good reason why it is not putting through a decision. We have heard nothing. We do not know what is going on. We never heard anything about whether they are going to consider the application or they are going to throw it out or what. This should not be. It is a disgusting situation. The time is long overdue that these backlog cases should have already been dealt with and put through.

That is my closing remark. I think it is time that the government faced reality.

1440

Ms Poole: Mrs Parker, you have made a number of points which are not only well taken, I think they are also common sense.

One of the things you mentioned was the fact that you do not understand why the government has this difference between smaller and larger buildings when it is considering the guideline, that it costs as much to operate a small building as a large one, and vice versa. We have had that same evidence from a number of people who have come before our committee. Would it make more sense to you, if they were going to have two guidelines, which I am not sure you need, but if they are bent on having two, to have them for older and newer buildings? We have also heard people say it costs a lot more if they have an older building. There is more repair work, and there should be a better allowance for that type of building. Could you give us your comments on that?

Mrs Parker: Yes, that would make more sense. On the other hand, there are no new buildings, so I do not think it is really necessary. There is nothing really that is very new. I have owned my building since 1971. It was new then, but it is 20 years old now. The older a building gets, the more it costs to maintain it. That is quite true. Perhaps something could be done for the age of a building to allow it more money, because it certainly needs more money.

But no two buildings are alike. If you know this industry at all, you know that every building is like a person. It is an individual thing on its own, and no two buildings run the same. You can have two buildings that are built identically, side by side, and are totally different operations to run. It is a funny thing about the industry, but we have always believed that a building had a soul and had its own

special characteristics. The government is killing that. There is no soul left in these buildings.

Mr Mammoliti: Ma'am, I agree with you on one point, and that is that the backlog is disgusting. I want to make it clear that it is the previous piece of legislation, the Liberal legislation, that allowed this to happen, and that is what we are trying to change here. We are hoping that our piece of legislation will expedite things at that level and will improve things as well. But when you talk about our piece of legislation, what we are doing, ma'am, is trying to find a middle ground for landlords and tenants. We found in the past that the tenants have been neglected, and we are trying to find a middle ground here. That is why it is important to hear you out as a landlord, as well as the tenants, so that we can make some suggestions through the committee to find that middle ground.

Mrs Parker: I think you should have more grounds for saying that tenants have been neglected. I do not think that is a fair statement. Maybe a few tenants were neglected in some buildings, but I do not think, on a general principle, that statement is correct. I think you are totally out of line in saying it. I resent that statement personally.

Mr Mammoliti: Do you?

Mrs Parker: Yes, very much.

Mr Tilson: I agree that the government probably has no idea of the far-reaching implications of this legislation on all aspects of the housing industry, but you have painted a number of issues that a number of people have made to these hearings. Could you tell me what you perceive will happen to the housing industry, people like yourself, if this type of antibusiness trend continues by the government?

Mrs Parker: I think you are just going to lose everything you have saved up for all your life. I cannot see any future in it at all for anybody. The tenants are going to suffer too. If you have not got the money to do maintenance, it does not matter if they put you in jail; you still cannot do it. It is ridiculous to say they are going to enforce maintenance if the person cannot get a loan from the bank and does not have the money to do it. They cannot do it, and nothing in this world is going to make them do it. There is no answer to that question, really.

The Chair: The next witness was Lighthouse Community Centre, Peter Harrington. Mr Harrington is not here.

VALIANT PROPERTY MANAGEMENT

The Chair: We will move to Valiant Property Management. Sir, the committee has allocated 15 minutes for your presentation. For the record, we would like all the presenters identified for Hansard as you are making your presentation, and you could withhold some time for questions and answers if you wish.

Mr Hann: Thank you, Mr Chairman, members of the committee. I think our timing is perfect. We just walked in the room. My name is Bob Hann. I am president of Valiant Property Management and with me today are my daughters, Debbie Clarke and Beth Kelly. We are here about Bill 121. I thank you for the opportunity to try to help you with the housing problem. I do not envy your task. I may have an advantage over many members inasmuch as I

have experienced being poor as well as being better off. I have had an appreciation for those who are struggling because I can remember when my family was on pogeys. I can also understand the business point of view.

My family have been tradesmen or builders working in the southern Ontario area since 1923. We started building rental apartments in 1957 and built the last one in 1972. We stopped because of the threat of rent control. We still own and manage those buildings. We do not buy or sell, nor do we flip apartment buildings. Just as a tradesman is worth his hire, I believe it is only fair to also acknowledge that a landlord is worth his hire. I have been both, and believe me, the 24-hour-a-day responsibility of a landlord is much more difficult than when I was practising my trade.

I am very disturbed by the retroactivity of Bill 4. We acted in absolutely good faith in following the intent and letter of the existing rules, only to be caught by that unfair legislation. It may be a poor example, but how would you like it if suddenly you, as a politician, were turfed out because the rules were changed and you had to have 50% in a three-way race?

I wish to remind you of Bob Rae's message on the platform the night of the election when, in spite of the euphoric heat of the victory he said, "We will govern for all the people of Ontario," and later he also said, "We will be fair." I got a great deal of comfort out of those statements. I felt he passed the first trial of triumph. Bill 4 broke the bubble for me and now I agree with our Chinese friends who hate the number 4. Even Bill 121 adds up to four, and I believe this is the fourth major piece of legislation to deal with rent control. Quite frankly, with all the changes, rules, regulations and interpretations, I am burned right out trying to understand the rules governing my business.

You should also be aware that it is so complex, we often get differing advice from rent control offices on the same subject. It is quite understandable that the Minister of Housing made an incorrect statement to the Legislature with respect to the capital cost recovery rules. Our buildings are between 19 and 34 years old and we regularly do one or two roof replacements per year. However, after getting caught by Bill 4, I am not going to do any more major capital works until I am treated fairly. It does not make sense physically or businesswise for us to keep doing those \$2,000 and \$3,000 and \$4,000 patchwork jobs, retubing a boiler or patching a roof or a parking lot. Those things all have a set life and we regularly try to do patching to make them last an extra few years, but for tenant comfort and convenience they should then be replaced. Unfortunately, there is a disincentive to do the job right.

1450

As I understand Bill 121, an owner has to prove he spent 5% of the rents to allow a 3% increase above guidelines. This is the same as or tantamount to saying, "Don't do the work properly." My office is in one of our apartment buildings. I talk to many of the tenants and I see some of our tenants socially. I know that the vast majority want and can afford the \$20 to \$25 per month increase over the guidelines that would allow us to give them a better level of service. Special arrangements, both governmental and private, can be made for the small number of

people who cannot afford that. But to continue to underserve the 90% to 95% who want a new roof over their heads or who want to stop the salt and rust from coming through the slabs and dripping on their cars just does not make sense. It is the height of folly to make a rule for a tiny minority and kiss off the majority.

Much of the mistrust of politicians and our system is because our tenants know they are suffering from rent control. It may be a love-hate relationship, in that they love the low prices of apartment rents but they hate their poorly maintained homes, but I can assure you they despise the rent control system that has evolved. If you do not give an owner some incentive, we will see far worse housing conditions than any so far. I will try to offer a solution after I have discussed the guideline figures.

First, I want to thank you for the continuing cost pass-through philosophy. Anyone suggesting that costs of operation do not rise is simply not in the real world. I sympathize with those people who unfortunately do not receive an increase in income to make up for rising costs, but it will be counterproductive to force the rental housing industry to try to compensate them. That is a separate welfare assistance problem.

The guideline figures are expected to compensate an owner for his extra costs. I assure you they have not done so. For instance, each two-year period of a three-year municipal term we get tax increases of about 12%, and the election year increases are 6% or 7%. Taxes are our biggest operating cost. So our biggest item of cost is going up roughly double the allowance two out of three years. The treadmill of rising prices is running faster and faster on us. We cannot keep up but we have no choice. We have to pay the taxes and other increased operating costs.

To cure that problem the drafters of Bill 121 put in a provision for recovery for extraordinary operating costs, and I thank them for this. Unfortunately, it is set up in such a way that it does not get triggered. We did a run-through on the arithmetic and find the method in Bill 121 does not allow this extraordinary hike in costs to be usable. Basically, this is because of the requirement that all operating costs are lumped and then must be 50% above the previous year. We will be whipsawed by this. For instance, last year our taxes went up 12.3% in Oshawa. This year, an election year, they are up 7%. This year we have had most of our operating costs subject to the GST, so you can see that again this year we will have large increases but we will not be able to make a claim. Next year we will probably be hit with high electrical rates.

Please remember these extraordinary operating costs increases are also subject to the 3% cap. If I have a 12.3% increase in taxes, a 10% or 12% increase in electrical rates and put in a new boiler, all I can get is the 3% over guidelines. Since I have to pay taxes and electricity I cannot afford to do the roof. It may be considerably cheaper to leave one or two top-floor suites or even all of them on the top floor vacant and do a cheap interior tarpaper roof on the floor, so that whatever leaks in the roof is gathered and piped away. If we are forced into this ridiculous situation, there go more suites that cost people about \$475 per month that were lost for about \$25 per month. These suites have

to be replaced with government-funded and subsidized suites that cost you and me anywhere from \$1,500 to \$2,663 per month.

Surely it makes sense to drop the 50% over and lumping requirements, so that a huge increase in operating costs can be passed through even it is dampened by, say, a moving average over two years. There could still be a maximum, but if it is more closely related to realism an owner might be able to survive.

In conclusion, I suggest the following:

Recognize that major capital items need replacing. Create an incentive for the landlord whereby he can get his costs back. I estimate this to be 4% to 5% of rents. Or allow what the Minister of Housing told the Legislature, "A capital expenditure which would generate an increase of 5% above guidelines under the old rules would now be passed through at 3% the first year and 2% the second."

Recognize that the guideline increases are not fine-tuned enough. They should reflect the reality of our biggest costs of operation. Again, I feel a small upward tick of the Bill 121 figures will help alleviate most landlords from falling too far behind. My best guess is what I am suggesting will not exceed 9% for guideline and capital cost expenditures. Of course, this increase would only be after a major expense took place and was proven. It would drop back to the guideline figure for subsequent years. Further, what would be wrong if the total proven rent increase exceeded 9%, then there would be a carryover just as the minister said in the House: The cap could be phased in over two years or more. For instance, if the roof or boiler or garage slab repair was proven to be 6%, there would be a 3% for two years plus the guideline figure.

I have three more quick points to make. First, there are numerous other items in Bill 121 that seriously harm our business. I have only hit on the ones I can quickly address. Second, I commend you for the five-year exemption for new buildings. However, because it will probably take a year or more for rent-up and at least five years before I reach the break-even point, I will not be building new rental apartments. I suggest that if it were 10 years from, say, 90% occupancy with some form of absolute guarantee, this may very well be of interest to builders such as myself.

Finally, I want to explain my feeling about this government, which is reflected in this committee. Just as I need tenants and truck drivers, surveyors and superintendents, garbagemen and government, for my management and new construction I am also needed. I hope you recognize that and that during the committee consideration you will some time put aside the bias that each one of us wakes up with every single morning of our lives and make decisions we can all survive on. I pray that your considerations are made wisely and fairly. Thank you for your attention.

Mr Duignan: Would you, for example, like to see the whole question of taxes separated out of the rent and the question of tax increases dealt with separately from a rent increase?

Mr Hann: I do not know exactly what you mean. I guess what I am saying sir, is that as long as it is realistic, in other words, as long as it reflects what actually happens

to our costs, that is fine. One caveat is, "Please simplify it." We are spending so much time on trying to understand this legislation, and if we are trying to understand and spending so much time, just think of the people and the abilities of the people being wasted who are having to drop it. I mean, it is mind-boggling. I cannot believe how complicated it is. If it is complicated, it leads to a lot of unknowns. As you know, anything that is unknown businesswise is a real downer. It creates a real downer. Any unknown that we have to operate on making—

The Chair: Thank you very much, sir.

Mr Tilson: Yes, anticipating that, perhaps I could rephrase it. I do not know whether you have had a chance to look at some of the other rent controls in other jurisdictions such as the United States. Looking at other jurisdictions, what, if any, do you expect will be the relationship between the landlord and tenant as the result of this legislation?

Mr Hann: It is unfortunate that this legislation has led us into the position of being at loggerheads with our tenants. In our operation, by the way, I try not to call them tenants. I try to call them residents and I try to refer to myself as an owner. But apart from that, we seem to be at loggerheads and the people in between are the rent control people, so you have three fights going on: owner, resident, generic-term politician.

It is bad because, as any of you know, your customer is the most important thing you have, and right now we are fighting instead of co-operating and doing a good job for our residents. With respect to the other areas of jurisdiction, rent control has always led to terrible conditions and destruction of the industry.

Mr Brown: You did not really mention in your brief what types of buildings you had. I presume you have some smaller units and some larger ones, some less than six units in a building and some buildings with more. The reason I am asking that question is because there is a differentiation within the bill as to size of building.

Mr Hann: No, we have no buildings that small. Our smallest building is 21 suites.

Mr Brown: You own a number of buildings, though. Could you tell me if there is a relationship between the number of units and the kind of costs you might incur per year? The government is telling us that smaller buildings cost more to operate than bigger buildings.

Mr Hann: I do not know, because a strange part about it is that our smaller buildings that were built years ago with—for instance, we have a 21-suite building that has never had a roof replaced. The reason for that is that the material that was used on that roof was before they were cracking the asphalt so far down to try and sneak out—do you want me to stop?

The Chair: Time has expired.

Mr Hann: I do not know what you want. If you ask a complicated question, I have to—

The Chair: We are trying to do it all in 15 minutes. That is the difficulty, Mr Hann. Thank you for your presentation today.

Has Mr Peter Harrington arrived? No.

1500

BEYOND THE LIVING ROOM COMMITTEE

The Chair: Beyond the Living Room Committee, Mr Howard Brown. Mr Brown, you have been here before. I think you know how the committee works.

Mr Brown: Mr Mancini, it is a pleasure to be back.

The Chair: You have 15 minutes and you can retain some time for questions and answers if you wish.

Mr Brown: Mr Chair, members of the committee, ladies and gentlemen, my name is Howard Brown. I am pleased to be presenting this paper on behalf of the Beyond the Living Room Committee. We are a coalition of private and public sector tenants and home owners. My presentation will take about seven minutes; then I will be open to your questions.

Our volunteer group was formed just over a year ago to monitor affordable housing policy, particularly in the city of Toronto. Since then, we have made over 20 presentations before government bodies in hopes of bringing greater democracy and accountability to the affordable housing front.

We have come before you today to express our concerns about the current legislation you are reviewing, Bill 121. The three specific issues we want to cover are: (1) the scope of future rent increases; (2) the enforcement of building maintenance; and (3) the types of units covered by the legislation.

Future rent increases: We are pleased that the proposed new legislation will address some of the previous abuses in the old rent review system. For example, we are pleased that tenants will no longer have to pay for financing the sale of apartment buildings or pay 30% or more, often retroactive, rent increases in one year.

However, while this new legislation seems to be better than previous attempts, we want to raise specific concerns to make it more effective. As the goals of the legislation are "to provide better protection to tenants from high rent increases and to ensure maintenance of existing rental housing," we feel these suggestions will do that.

We are concerned that this legislation will result in annual 7% to 8% rent increases year after year. With the 3% option added to the basic guideline, which already includes a 2% allowance for capital expenditures, many tenants will have difficulty meeting this major expense in their household budget.

One 90-year-old woman who lives in an apartment at Yonge and Eglinton asked me on Friday, "What is the use of having a rent control board"—as she called it—"if they do not control the rent?" She was deeply concerned about what this new legislation would do for her ability to stay, as she probably does, in her own apartment.

We are also concerned that tenants will not have adequate understanding of the complex nature of the rules. This whole procedure was set up to make the system simpler. I was interested to hear the gentleman before me making that exact point. For a tenant going through rent review for the first time, tenants need reasons for the rent increase decisions and should receive them automatically in clear, simple language.

A 15-day appeal procedure is totally inadequate for tenants to secure appropriate legal counsel on the best way to deal with their choices. An appeal to Divisional Court on questions of law is equally inadequate.

There is already significant confusion over the proposed two guidelines, one for buildings over six units and one for six or under. Tenants are familiar with the one guideline per year and the two different guidelines will do nothing to make the system simpler.

Legislation should clarify how binding the decisions of pre-hearings are and whether further evidence will be allowed in the final administrative review of the rent officer. Legislation should allow specifically for Saturday and evening hearings, as well as tenant input at every level of the decision-making process.

I can tell you that there are countless tenants who have seen their incomes or their pensions or even their life savings eroded because they faced rent increases year after year under the old legislation that were just out of their reach. These people and others are afraid this new legislation will make all affordable housing in Ontario a thing of the past.

On maintenance, there is considerable tenant concern over the definition in the legislation for words like "neglect," "inadequate maintenance" or "major" in describing capital expenditures.

There are still no time limits on work orders. Many tenants throughout Ontario have faced landlords who ignore work orders on maintenance in their buildings. It seems city building inspectors do not have the power to ensure that landlords comply with the work orders.

Tenants who happen to occupy a building at a given moment in many cases end up paying for years of neglect. It is too bad the government has neglected the concept of building capital reserve funds to deal with this issue. Over 5,000 tenants completing the Ministry of Housing's own spring survey supported this concept. This was the best-liked of any of the options the ministry presented.

While we recognize the difficulty in setting up adequate reserve funds in buildings that are already 25 to 30 years old, at the same time we are disappointed the government did not at least set up a capital reserve fund requirement for new buildings.

The obvious answer to ensuring adequate maintenance is tougher enforcement, possibly through licensing, which we suggested previously to the minister, and expansion of the low-rise rehabilitation program.

We would encourage each of you to visit some of the apartments in places like St Jamestown, right down the street from here. You can see the deterioration of the buildings right from the outside. Or visit buildings in the Yonge-Eglinton or Yonge-Davisville area, one of the nicest neighbourhoods in Toronto, where one building today is literally, as one tenant said, "fraying at the edges," with walls and carpets badly damaged and hall lighting totally out between several floors.

As the Beyond the Living Room Committee is a group of public and private sector tenants and home owners, we want to express in the strongest terms our outrage that the government has refused to include its own housing under the terms it so vigorously defends. A number of our committee

members are Cityhome tenants, which is the landlord for tenants in 7,000 units in the city of Toronto. We believe tenants in these units and buildings deserve the same protection as everybody else and should be included under this legislation.

In conclusion, there are certain issues that tenants and landlords do seem to agree on: (1) This legislation has to be simple, understandable, and should not create a larger bureaucracy; (2) This legislation has to have an adequate appeal process; (3) This legislation has to put government-owned housing under the same restrictions as privately owned dwellings.

There is no question that many tenants are deeply disappointed that this legislation was not limited, as expected, to one guideline per year, based on inflation. Tenants have enjoyed the relative calm of the last few months, where they have not had to worry about huge rent increases above the guideline. Let's now take the time to make this legislation right. The people of Ontario expect nothing less.

Ms Poole: Thank you very much for your excellent presentation today. I had a couple of questions. First of all, you mentioned that the right to a hearing under this legislation is inadequate. We had a presentation from OPSEU which suggested that the clause be amended to allow landlords and tenants to request a hearing at any time during the proceedings. Is that how you would like to see it amended, or do you have ideas of your own in that regard?

Mr Brown: I think our committee has tried to look at this whole bill to make it the least confrontational possible. I am familiar with the OPSEU presentation. I think their goal, as well as ours, was to find ways that we can actually negotiate directly between landlord and tenant to try to get some concerns expressed by tenants on the table or to get concerns expressed by landlords on the table. I think that having it at any time in the process would be a good suggestion. Our committee did not get into the detail of looking at that specifically, but I think our overall goal is to find any way that you can encourage the dialogue between landlord and tenant.

1510

Ms Poole: Very good. The other question I had related to the enforcement of work orders. Am I to take it from your presentation that you think a major failing is the enforcement of the work orders at the municipal level?

Mr Brown: There is no question, in speaking with the president of a tenants' association last week whose building had the entry system taken out for several days, of the feeling of total frustration with the city, the province, whoever was responsible. The tenants did not know who was the problem. They just knew there was a problem. If it was the city building inspector who was not acting fast enough, if it was the landlord, whoever it was, there was a problem and they wanted it cleared up. But I think that is a key part of the problem.

Mr Duignan: Thank you very much for making your presentation here this afternoon. I too am concerned that this legislation should be simple, it should be understandable and basically it should not create a larger bureaucracy.

We want to get away from the previous Liberal legislation, which made it totally not understandable and very complex.

You also talked about having an inadequate appeal process. Have you got a suggestion along that line of what it should be?

Mr Brown: I think the basic concerns tenants have, and I have heard it expressed by a number of tenant groups, is that it has to give tenants time to get a sense of what the ruling says. Obviously, a 15-day period to appeal is simply inadequate.

Our goal was to create some time so tenants could get together as a tenants' association, potentially with legal counsel, to get a better understanding of what are the issues here and what are their options. Our goal would be maybe a longer process, and I do not know if it would be 60 days or 90 days at a minimum, but clearly if you limit it to 15 days, large tenants' associations, which may have been inactive for years, just cannot turn on a dime and expect to be able to respond in an intelligent way, in some cases hire a lawyer or whatever is necessary to be able to give back to the government an informed opinion.

I think the suggestion made by Mrs Poole might be a good one, where there is a chance to come in and out of the process so that different information could be shared along the way and there would not be this deadline that is so frightening for tenants.

I know that in a building in my neighbourhood, in fact even in my own, where we faced a 27% rent increase just over a year ago, the tenants were told, yes, they could appeal it, but they were not sure how much it would cost to go through the legal process, they were not sure how much savings they would get, and the concern was, what are the pros and cons of making any kind of appeal?

Mr Tilson: Do you believe that the standard of maintenance and repair of the housing industry will be diminished as a result of this legislation?

Mr Brown: No. I think that hopefully, because there is no longer a requirement to prove a decrease in the maintenance, it may even improve it.

Mr Tilson: Where are the landlords going to get the money to do it?

Mr Brown: I think tenants feel very strongly that across the province of Ontario they pay \$8 billion a year in rent and that they pay rent in good faith; they expect well-maintained, safe, secure buildings. I do not think that is a perfect situation for everybody, because where do you draw the line. But tenants down the line feel they pay rent expecting a minimum service.

Mr Tilson: I hope you are right.

Mr Brown: I hope I am too.

The Chair: Thank you, Mr Brown, for your presentation.

Has Peter Harrington arrived? Okay, that will be the last call for Peter Harrington.

SYDNEY STEINMAN

The Chair: Sydney Steinman is next. Mr Steinman, you also have 15 minutes. You can reserve some time for questions and answers if you wish. We would like you to

identify yourself and any organization you represent for the record.

Mr Steinman: My name is Sydney Steinman. I am appearing here before the honourable members as a concerned citizen and I do not represent any organization.

Honourable members, the Rent Control Act will set out a system to control rent increases. In most cases, the landlord will be obligated to justify the extra costs for which an increase is requested at a rent control hearing, at which time the tenant shall have the right to dispute them.

It is to be hoped that the final legislation of the Rent Control Act will eliminate many of the problems now existing, such as shortening the long delays, prejudicial to both tenants and landlords.

Tenants usually know only property managers or building supers, having no contact with the actual landlord. There are bad landlords. There are also bad tenants. It is difficult for most tenants to formulate an affirmative opinion of their landlord, who almost never consults with them with regard to the administration of the buildings in which they reside. Many buildings are left in need of repair, sometimes more apparent than necessary. Tenants far too often have seen landlords act only in cases of urgent repairs, and many times to avoid legal action.

It is also a fact there are bad tenants, who purposely cause problems that are costly to the landlord.

For the most part, however, landlords are business people seeking a good honest return on their investment. For the most part, also, tenants would be willing to pay increased rents, if they felt these to be justified.

It is not surprising that applications for rent increases are usually met with anger, misunderstanding and essentially worry by tenants fearful they will not be able to afford such an increase and will face moves that, more often than not, prove disruptive to family life—uprooting children from familiar surroundings, friends, schools—and cause, in many cases, severe financial strain.

It would be wrong to assume all applications for increase are not justified in whole or in part. Many are, but landlords or their agents fail to convey this to the tenant, who usually learns of the requested increase by a notice taped to the front door so as to comply with the requirements of notification. It is not surprising the tenant reacts with animosity and frustration.

The period the parties are required to wait for the procedures that will finally determine if and how much rent will be increased increases tensions between the parties, who have in many cases had a hearing, a decision and possibly an appeal.

Landlords are all too quick to execute, which the present law allows, when they receive notification of an order under section 36 of the present act, and a tenant, unaware that a decision has been rendered for the payment of money, finds out when a sheriff's officer comes knocking at the door. Even when settled, tensions between landlord and tenant continue because of the inherent defects in the process.

There has to be, and there is, a better way. ADR, or alternative dispute resolution, has been sweeping Canada and the USA, gaining favour because of elimination of delays, its non-adversarial process and much lower cost.

Conflict can and does cost money, wastes time, increases tensions, whether the dispute be between landlord and tenant, family members, consumers, merchants, etc.

Mediation is the first step in the dispute resolution process and the most important. It does not require lawyers, but the parties are usually free to seek them out if they so wish. It only needs the informal participation of the parties. Mediation is an informal, co-operative process where the issues will be discussed, options examined and the parties, guided by the mediator, work towards a settlement of the dispute. It is conducted at a mutually convenient time, with a telephone or face to face. The mediator may require the parties to provide information or documents to support their submissions.

Mediation is a no-risk process in which a neutral person helps the parties involved in a dispute negotiate their own settlement. The mediator encourages communication, assists in identifying the areas of disagreement, as well as agreement, and then works to bring the parties to a resolution. The strength of mediation is that it can be a natural extension of negotiations already attempted, but that have broken down.

Conflict between landlords and tenants can cost money, wastes time and most certainly increases tensions. Mediators manage conflict by reducing tension, improving communication and preparing people in conflict to negotiate with each other to achieve a positive solution to the problem between them.

I suggest that a mediation component should be part of this revised Rent Control Act, obligating the parties to sit down under the guidance of a government mediator to talk out the dispute, put their cards on the table so each party knows fully the problems of the other. This should be a prerequisite to any formal hearing by the ministry and could be similar to that now in operation with the Ontario Insurance Commission dispute resolution branch, which to date has been 75% successful.

I would urge you to examine this option and consider the benefits it would bring to both tenant and landlord.

1520

Mr Tilson: Interesting. First time I have heard this put forward, sir. I guess my first question is, are you replacing one set of bureaucrats with another set of bureaucrats?

Mr Steinman: No, you are not, because of the neutrality of the mediator. What is happening is the landlord and the tenants sometimes, or most often, are completely unaware of why the increase has been requested. This gives the parties a chance to see each other for the first time and to talk face to face or under the guidance of a neutral government mediator who is completely neutral, unbiased, has no axe to grind. Settlement can certainly be brought quickly.

Mr Tilson: Do you have a paper elaborating on this? I would like to know, for example, who pays them, who trains them, who they are responsible to—those sorts of questions. Have you a paper on it?

Mr Steinman: I do not, but I certainly can give you documents on this. If we take the Ontario Insurance Commission, they are government mediators, paid by the government. It is part of the process. When someone applies

for no-fault insurance benefits at the present time and they have reason to go to the ADR process, immediately a mediator is named and sits down with the parties and, being neutral, brings the parties together, eliminates the tensions, and so far they have been 75% successful.

Mr Tilson: The government is supposed to be neutral.

Mr Steinman: If you look at it from one point, the mediators are working for and are paid under this process by the government, but what it does is it forces the parties immediately upon going the route of asking for a rent increase to sit down without any delay. Under the Insurance Act, the mediation process takes place immediately and must be terminated within 60 days, so that is part of the component. I can elaborate on it, but in 15 minutes I certainly do not have the time.

Mr Tilson: Yes. I obviously am pessimistic as to what you are saying, but I would be interested in hearing more about it. If you have a paper or documents available, I would be interested in seeing them.

Mr Steinman: I have documents, which I certainly will send in.

Mr Brown: I too am interested in your suggestion, and I would like to put another one to you. I have some reservations, like my colleague over here, as to who pays and how it works, and I would be interested, as he is, in your paper.

I look at another government model, though, in the field of labour relations and the field of health and safety in the workplace. There is a requirement in this province that there be committees formed of the employer and the employees that do not just look at it when there is a dispute; they constantly are monitoring the situation in the workplace. It seems to me that perhaps a model like that may work because government is not even involved in that model and therefore there is dialogue and consultation all the time. It is kind of forced that there is a dialogue and consultation, so sometimes the problems are resolved before they become disputes at all. I am interested in your comments.

Mr Steinman: That could very well work, but what it does is it takes away from the process where the landlord and the tenant sit down face to face to try to work out their particular problem. You must admit that under rent control the problem that exists between one particular landlord and a tenant may not be the problem that exists between another landlord and tenant.

Mr Brown: No, but this would be building-specific.

Mr Steinman: But the component, the whole idea of mediation, I believe—that is why I am here—works, and it is working throughout. Take for example rent control in Quebec. In Quebec, under the rent control act at the present time, all rent increases go in front of the registrateur or one of the people who hear these applications. It is completely less complicated, much less complicated than what we have here. A mediator or someone sits down with the parties. They try to do it in groups, where they get the parties, the landlords and tenants, together and they try to get all the points resolved, or at least only the points that

are left go to a hearing. It works. What I am saying to you is that it is a component. Think about it, to be set up in any way you so wish.

Ms Harrington: Your proposal for mediation I think is a very important idea. It is important to the relationship between landlord and tenant. That is something we have been talking about, that the relationship has to be strengthened, that it has to have more of a balance. I believe that landlords want long-term, responsible tenants just as much as tenants want long-term, responsible landlords, so it has to work both ways.

What you are saying is something that I think would be needed also for long-term planning. We want landlords to do maintenance, upgrading and repairs every year on an ongoing basis, and this is something they have to consult tenants about.

Mr Winninger: Mr Steinman, your proposal for mediation is certainly a very compelling one. In virtually all levels of our court system, pre-trials are required and there is an immense saving in time and money. Even legal aid directors now are doing mediation to save money on legal aid certificates. I imagine what you are asking for here is a bump-up of the kind of informal discussion that landlords or tenants can ask for prior to the hearing to try to resolve the issues.

Just before you answer, my only concern is this: Tenants and landlords often come to these hearings with unequal bargaining power. Without the safeguards provided under the Statutory Powers Procedure Act, which are invoked at hearings, there might be some imbalance of power between the landlord and the tenant. I wonder, if you made this form of mediation compulsory, how you might address that concern.

Mr Steinman: I would ask you to take a look at the way it works in front of the Ontario Insurance Commission at the present time. You are correct that it is a form of bump-up, but the difference here is that if there is a mediation component in the act, it is obligatory. It means that as soon as there is a request for an increase and it goes to the Ministry of Housing, a mediator is named who sits down, calls the parties and says, "I will be talking to you within this delay."

The Chair: Thank you for your presentation. I am sorry, but the time has expired for your remarks.

1530

WHYY MEE FAMILY COUNSELLING FOUNDATION
OF METROPOLITAN TORONTO

The Chair: Eugenia Pearson representing Whyy Mee Family Counselling Foundation: You have been allotted 15 minutes for your presentation. You can reserve some time for questions and answers if you wish. We will turn the floor over to you.

Ms Pearson: On behalf of Whyy Mee Family Counselling Foundation of Metropolitan Toronto, we thank you for this opportunity to address you today and to provide you with our input from the community perspective on the proposed rent control legislation, Bill 121.

Whyy Mee is a community-based organization geared at family and individual counselling that gives support to members of the black community, with particular emphasis on the youth who come in conflict with the law. Our aim is to operate directly within the courts to give services before court appearances. We counsel and support families with housing problems, especially the elderly. We give support in court to revoke eviction notices for those who cannot afford to find a home within their income level, be it from their salaries or from social assistance. We provide assistance to anyone who identifies and needs our services.

It would have helped if there was sufficient time to present to you a brief on Bill 121 from the board. However, the unique position of providing you information from the floor is a benefit to your office based on experience and knowledge coming from the community.

The information and problem I bring from the community are twofold. First, many of our members in the community do not know what Bill 121 is, let alone understand its content. We applaud your effort for raising community consciousness. However, our first recommendation is for complete clarity about Bill 121 to the communities.

Next, what many of these people in the community know is lack of affordable housing, rent increases faster than their incomes, homelessness, disrepair and landlord-tenant abuse.

We take the position that if Bill 121 is to live up to the government's proposal to provide better housing protection from high rent increases and to ensure proper maintenance, you need more community involvement such as a community housing protection committee. The reason for this is because we can no longer rely on the guidelines and the goodwill of the bureaucracy to interpret and enforce the laws.

For example, some of the most disturbing areas that need to be addressed in order to make Bill 121 effective are enforcement and maintenance standards, the concept of what is considered maximum legal rent, and adequate proof of requirement as it applies to the guideline increases, among other things.

Take disrepair and enforcement of maintenance standards. The provincial guidelines must be enforced to be effective. There are too many flexibilities to its usage. It is the responsibility of government to ensure the best national or provincial services. Section 112 currently provides for the appointment of inspectors for the purposes of this act. We take the position that enforcement around the province is grossly inadequate and inconsistent towards the tenants.

You will find enclosed pictures of an apartment in one of the major residential areas in Metro Toronto. The tenant gets total abuse on requests for services. On two occasions an inspector was called. Orders were issued to the landlord for instant repair. At no time did the inspector return to check the job. The most recent is May 1991. These pictures attached to this report show that the work order was not totally respected. To date the inspector has not checked on his 15-day enforcement order.

The point is that Bill 121 provides for the landlord's claim of compliance to be observed by the province, but does not make the same provision for government response to tenant complaints of non-compliance. We ask

that a community-based committee be put into place to ensure that the legislation is respected and that inspectors be given more responsibilities to check on work orders no later than four weeks after the notice is served, and with more powers to deal with non-compliance. The legislation should provide for a neutral and unbiased community committee to hear landlord and tenant cases.

Ms Harrington: I want to comment about your last suggestion of the community-based committee. I do not have it in front of me, but there are two thrusts in the new legislation in that direction. First of all, as was announced in June—actually, it is not in this legislation, the first one—by the Minister of Housing, we are giving some moneys to make sure there are advocacy groups that are funded with regard to housing. The name of the program escapes me at the moment. Also, in this legislation there is a suggestion for having an advisory committee to the minister on an ongoing basis dealing with this legislation. I think that is the type of thing you are asking for, but you maybe wanted more community-based in your own particular community here in Toronto.

Ms Pearson: Yes, definitely. I think we need more; not only a few agencies, we need more advocacy groups. The problem that I see and that I personally have experienced—I am a long-time tenant and there are many more who are long-time tenants in apartments from 1970 and beyond—is that whenever services are asked for, you get this song and dance starting from the superintendent and it goes on to the management. You cannot break through to the top guy because of the management barrier and you are not getting the service. If they are asked to come and inspect the building—we say, "Come and see what it is we are talking about"—we do not get that type of service.

Now if we had a group and said: "Come in and see what it is we are talking about. Let the landlord come and sit and talk with the tenants"—many of the landlords do not face their tenants and do not speak to their tenants. They do not know what is going on. They give empowerment to their superintendent and to the management, and those are the people who are creating most of the abuses to the tenants. We cannot break through to them.

I think it is time for landlords to know who their tenants are, who are keeping their buildings, because we have an obligation as tenants and they also have an obligation as landlords. We do our best and they should do their best. We are paying our money. Be it as it may, whatever the rent is, we are still working hard for that money. We are paying it to them and we need a quality of service and a comfortable lifestyle in living in the apartments.

Ms Harrington: One of the main points of this legislation is more stringently enforced maintenance and maybe that will make landlords be at the building a little more often and see what is going on.

Ms Pearson: They should be told that they have a right to inspect the work.

Mr Duignan: Just following up very briefly on Margaret's comment about enforcement of building violations, under section 112 of this act inspectors can be appointed. Would you like, for example, the inspectors to

liaise with the community groups and report to them and they would be part of that process as well?

Ms Pearson: Very good, yes, that would be a good idea. I think the inspector should come back and see if the work is done. There is the picture I showed you. The inspector sent in his order and they did part of the job. The paint job that you saw there, the stripping, is not done, has not been honoured, and the water is still dripping.

Mr Tilson: We have had landlords come to these hearings and simply say to us: "Because of this legislation, we will make no capital expenditures. We can't afford it. We will make very little maintenance improvement.

We can't afford it." Of course the answer is in this legislation, that the government will force them to deal with these issues they have presented to us. If the problem is as serious as the landlords say—in other words, if they are serious about their threat, and I take it as a threat, that they will not do these things—can the government possibly pay for this tremendous enforcement procedure that is going to be developed?

Ms Pearson: The next thing the government should do is to be on the tenants' side, to see to it that we do not pay our rent, because we are paying rent. Houses that are older than 20 years, sure enough, do not have overhead expenses. Many of the apartments are bringing to the rent increase board a huge repair bill and the only thing I see some of them do is paint the garage and that is the bill they bring forward. They must be able to provide the government with satisfactory bills stating that the work has been done and prove to the tenants that the work has been done.

Mr Tilson: You have indicated that you come from a counselling organization. You look at the issue of homelessness. You see homelessness all the time. You look at the problem that people simply cannot afford where they are going to be staying, and on it goes. My question to you is, is that a social problem in the same way that people cannot afford food or are not being fed properly or young children are not being fed properly or are not being clothed properly and indeed are not being housed properly?

You could tell me stories that would make my hair curl, I am sure. It is getting curly as it is. Is the type of situation you are describing more of a social problem as opposed to a housing problem?

Ms Pearson: I think it is both, but one is greater than the other. It is a social problem, because many of the people are having salary disparity. It is not the fact that some people are not qualified. Unfortunately they do not get a job that pays them well. They have to survive. Many of them have to protect their integrity. They do not want to go on social assistance, because it does not make it any better for them.

It is the same people's children who are having the problems, because they spend most of their time struggling to survive, most of them trying to find a place to live, and in the process their own children are disfranchised from the type of love and support that they are supposed to get. These are the same sort of children who are running afoul of the law, because they are left on their own and aggression takes place in between because they cannot cope; they do not know how to handle it.

Ms Poole: Welcome to the committee, Eugenia. We are glad to have your comments today. You work with young offenders on a daily basis and sometimes you are a counsellor and sometimes you are an advocate. I am sure sometimes you are a mediator who is trying to explain to the law what the young person's problem is and vice versa.

We had a presentation not too long before yours that talked about setting up a system of mediation between landlords and tenants. He felt a lot of the problem was lack of communication, that some of the problems could be remedied. Can you see that type of thing working or do you feel that the landlord-tenant situation is so hostile right now that there is no hope of mediation working?

Ms Pearson: No, I think there is hope. There is always hope for mediation. Once the landlord knows that he has been asked to face his tenants—tenants do not have horns, for God's sake. What makes them very angry is that they never see who they are paying their money to and they see a superintendent who lies through his ears, because whatever he tells management and whatever management tells the owner, they take it.

That particular picture I showed you is a situation in point. It is over 20 years the tenant has lived in the building and the tenant is not doing anything wrong, is not destroying the building, not carrying on, is not blackguarding the building. It is a respectable tenant.

There is absolutely no reason, because the tenant knows his rights, why that person should be punished if that is the tenant who calls the inspector. If he says: "Fine, you won't do anything. I'll call the inspector," I do not think a person should be punished for knowing his rights, and this is what happens. They pay more attention to those who do not know their rights or those who are afraid, who say, "I cannot do it, because I have my dog and I have my cat." Therefore, they take anything that is given to them. The building is going down because these people are leaving the building because they want to protect their dogs and cats, while others who are paying their rent and are good tenants are suffering all this type of abuse.

The Vice-Chair: Thank you for appearing today.

Ms Pearson: It is a pleasure.

The Vice-Chair: The next presentation will be from Leo Hildebrandt. If Mr Hildebrandt is not here, we will hear, if they are here, from the 59 Spadina Road Tenants Association.

Mr Tilson: Very nice job, Mr Chair.

The Vice-Chair: I am doing very well. Is Allan Shiff here?

I think then it would be advisable—we are a little ahead of schedule—that we take a 15-minute adjournment. The committee will adjourn until 4 o'clock.

The committee recessed at 1545.

1600

The Chair: The standing committee on general government is reconvened. Mr Leo Hildebrandt? Mr Darcy Keene? Mr Allan Shiff?

Mr Tilson: I assume these people have acknowledged to the clerk that they are coming.

The Chair: Yes, they are all officially on our schedule.

Mr Tilson: I know they are on the schedule, but have they acknowledged that they are coming?

The Chair: Yes. It is not unusual in the course of a full day to get one no-show, but to get one earlier on and apparently another now, with maybe another one to follow, is a little unusual. Are there any procedural matters the committee may wish to bring up at this time while we wait for Darcy Keene?

Mr Tilson: I had made a motion. I gave notice of motion some time ago with respect to someone from the appeal board coming to the committee and addressing the committee on comparing the appeal process now with the existing legislation and under the proposed legislation. I cannot find my notice of motion. Perhaps this would be an opportune time to bring that forward again.

The Chair: I think so. We are looking for it also.

Mr Tilson: The motion was that the members of the general government committee invite Mr Bob Bentley, Rent Review Hearings Board member of the northern region, to attend the hearings on Bill 121 and offer comments on the proposed rent control legislation.

The reason why this name was asked is that a member of my staff specifically spoke to Mr Bentley and requested whether he could offer any contribution to the committee from the hearings board perspective. He indicated that if he is given sufficient notice, he would be prepared to attend. I make that motion out of a genuine interest in the committee spending some time comparing the two systems.

We have spoken in the subcommittee and there was some concern about my mentioning a specific individual who is currently on the hearings board. I understand that concern, although judges speak their mind all the time. The Chief Justice of the Supreme Court of Canada as well as as, I believe, the Chief Justice of the Ontario Court of Appeal, are speaking their minds on matters of interest to the legal system, so it is not unusual.

The Chair: Are you making the motion now?

Mr Tilson: I have just made the motion, yes.

The Chair: Let's do it formally then. The motion has been made. We will entertain discussion on the motion. Mr Tilson, if you could make your full presentation to the committee now, we will call for other comments and then we will call the matter to a vote.

Mr Tilson: I really have nothing further to add other than the comments that I did make. Many of the questions that are coming forward from individuals speaking to this committee express a concern with the appeal procedure. To fully understand the existing system and to understand the system that is being proposed, I believe it would be useful for this committee to hear someone from within the appeals board, a hearing officer, to come and address this committee, giving his or her thoughts.

Mr Brown: We also would be most interested in hearing from people dealing with appeals. The issue has been brought forward by a number of presenters. Seeing as this bill is proposing a significant change to the way appeals are heard, I think an opinion of someone expert or knowl-

edgeable in this area would be useful for the committee to hear. I am slightly concerned with a given name being put forward, but if this gentleman is agreeable, we have no problem with that. We would certainly like to see someone, whether it is the gentleman named in the motion or not, come forward and make a presentation. We will be supporting Mr Tilson's position.

Mr Abel: We have some concerns about having somebody, an appointee specifically from the public hearings board, being invited to speak. We are just not too sure how appropriate that would be, if that could be putting Mr Bentley or whoever is on the public hearings board into a difficult situation. I have a question. In Mr Tilson's motion, what type of information is he attempting to mine from Mr Bentley?

Mr Tilson: Dealing with your first point, as to the appropriateness of Mr Bentley, I have not spoken to him directly. My staff have. That very question was put forward to him, whether he would feel uncomfortable in his active position, and his response was that he would not.

I, as a member of this committee, and I hope all members of this committee, would like to be fully informed. We can read the sections and we can hear people, whether it be tenants' associations or landlords' associations, who have gone through the appeal process. There is a lot of criticism directed towards the existing process and the proposed process. I would like to hear all aspects of that process.

In answer to your question, before this committee makes its recommendation to the House or puts forward any form of amendment or debates any form of amendment, I would like to know as much about the subject as possible. That is an avenue we can learn from another perspective than someone who is actually on the board.

Ms Poole: The only concern I had about asking the person involved to appear before us was whether he was a willing witness and whether he felt comfortable with it. Mr Tilson has satisfied me in that regard. I was just about to say, "Call the question," but I would prefer if George left first.

Ms Harrington: Briefly, if there is any information that Mr Tilson or any other member of this committee needs, I am sure they will be able to get it directly from the ministry with regard to the hearings board.

Mr Tilson: In light of that comment, I ask for a recorded vote.

The Chair: Okay. I am just waiting for photocopies of your motion.

Mr Tilson: My last copy is gone.

The Chair: We have sent it out to be photocopied. As soon as we all have copies, we will call the vote. What I am going to do is, since I understand Darcy Keene is here is I am going to ask Mr Keene to come forward with his 15-minute presentation, and in between presentations we can take the vote on your motion, if that is agreeable to the entire committee. Very good.

1610

59 SPADINA ROAD TENANTS ASSOCIATION

The Chair: Mr Keene, the committee has allotted 15 minutes for your presentation. If you wish to hold some of

your time for questions and answers, that will be your choice. I understand you are here representing 59 Spadina Road Tenants Association.

Mr Keene: As the Chairman stated, my name is Darcy Keene and I am here this afternoon to represent my group, that being the 59 Spadina Road Tenants Association. I would like to apologize in advance for the perhaps unsophisticated nature of my presentation. I am neither a member of any organized interest group nor a paid political lobbyist. I am just what I consider an average middle-class renter trying to find respectable accommodation in a rather hostile environment, that being Metropolitan Toronto. I would also like to note up front that the views I am about to express are the views of my association as a whole and not necessarily my own personal views.

With regard to the matter at hand, the legislation we are addressing, Bill 121, our association came to the conclusion that there were four major areas in which this legislation could potentially be critically flawed, and they are four areas we would like to see addressed in any modifications that are made to the legislation, or perhaps more specifically at the regulation stage, in terms of enforcement that goes along with the general issues presented in this legislation. The four areas where we saw attention being required were as follows: first, the nature of the annual allowable maximum increase that is given to landlords; second, the definition of what would be construed as "capital expenditures" under the legislation; third, the reactivation of the rent registry; fourth, for want of a better term, the use of the retroactive 10-year review "loophole" which is being allowed to landlords.

I will now address these four points in a little bit more detail. On the first issue, the annually allowed guaranteed maximum increase, it is our contention that whatever the maximum increase determined per year plus the addition of the potentially allowable 3% increase is an ineffective way of adequately controlling rents in Ontario. We propose that it would be more appropriate to set the annual increases strictly at the annual inflation rate for the given area. If you choose to separate it into the Toronto region, let's say, and the rest of Ontario because Toronto is subject to different economic constraints than the rest of the province, then that would be fine. However, the use of the potential additional 3% increase for landlords for extraordinary operating costs in and above the annual inflation rate is, in our opinion, nothing more than a benefit that has been given to landlords and their lobby groups to make them a little happier with the fact that rent control legislation is coming in.

From a business perspective we do not feel this is a very sensible way to allow landlords to run their business. In fact, we maintain that what it does is encourage landlords to deal with their businesses in a poor fashion. Because you are rewarding a landlord for neglecting his investment to the extent that you are giving him the opportunity to come up with additional expenses at the end of the year, you are actually encouraging him to deal with his investment badly so that he can come up with additional expenses at the end of the year to justify his additional 3%.

It is our opinion that any business person, landlord or otherwise, who has an investment takes the business at face value and has to make a profit out of it or not. Granted, you can give it an inflationary increase, but whether or not he makes a profit is his own business. Do not give him that additional 3% as a way out because he was a bad business person and came up with extra costs at the end of the year. There is no reason for that. No other business is given that additional way out. We would like to see the additional 3% lopped off the top.

The second point I addressed was the definition of "capital expenditures." In our personal situation, we are being faced with a package that has been presented to rent review whereby the landlord is attempting to justify a variety of capital expenditures he has engaged in over the last year.

The definition of "capital expenditures" is vague at best. In your précis it describes capital expenditures and it actually lists in the third line "maintaining and provision of plumbing, heating, mechanical, electrical, ventilation and air-conditioning systems." It is our contention that maintenance is not a capital expenditure, and this must be cleared up in the legislation.

Maintenance, in our opinion, is what we pay rent for. Time and time again when we have had these meetings, we ask, "What are we paying rent for if he is being allowed these additional expenditures?" We are faced with a 10-year review right now where the landlord is saying, "Look at the fact that I have purchased \$10,000 worth of paint over the 10-year period from 1975 to 1985." Painting apartments is not a capital expenditure, even if it did amount to \$10,000 over the course of 10 years; it is merely maintenance.

The third point we would like to address is the rent registry. It is our opinion that the rent registry, when it was initially implemented in 1986, did not work, and the way it is proposed to introduced it now in 1991 will also not work. The reason we feel it will not work is that it places the onus of proof and verification upon tenants themselves, and this is unreasonable.

If the ball is in the landlord's court, you are asking him to fill in a single form that says what rents he is receiving. In the verification procedure, you put the onus on the tenants to fill out a form they may or may not understand, return it to rent registry and say, "No, he is not charging the correct rent, and even if he is charging the correct rent, what he has listed on his form is not accurate." It is difficult to prove on the part of a tenant, because a tenant has no access to acceptable information. He cannot go back to the history of the building. He does not have access to the landlord's financial records.

The landlord has all the information available to him and he can submit whatever information he wants, but the tenant is the one who has to stand up and say to the rent registry: "No, this is not correct. This is not right." From a tenant's point of view, particularly a tenant who is perhaps not that familiar with the workings of the system, it is very difficult to prove.

The fourth point, the major point we wanted to address, is the allowance of the retroactive 10-year review. As I stated earlier, our building is presently faced with a

10-year review application to the rent review services. The landlord has come up with a package that consists of 10 years worth of—I use the term again—rather vague financial documents: cancelled cheques, invoices for the period from 1975 to 1985.

As tenants, most of whom have been in the building only the last couple of years, say from 1988 to the present, it is very difficult for us to go back and challenge the information presented by the landlord. How do we know if a cheque to some unnamed contractor was used on the building or not? How can we verify this information? We cannot. There is no access to the information. We cannot go back and contact a tenant who lived in the building from 1975 to 1985, because we have no record of who lived in the building during that period.

There is no onus put on the landlord to provide that information for the tenants. Consequently we are hamstrung when trying to respond to the information. All we can say time and time again is, "It looks a little vague to me," or, "This was not really a capital expenditure; it was maintenance." Consequently we are finding it very difficult to respond to this 10-year review.

Finally we do not think the landlord should be given this opportunity to justify what we consider to be nothing more than illegal rents. We have identified that he has been charging rents above the guideline, and yet this government is allowing him the opportunity to go back some 15 years and prove that these illegal rents were actually justified because he had all these additional expenditures. If he had these additional expenditures, why was he not doing something back in 1975 to 1985? It is our conclusion that this is a loophole the landlord can use to justify what is nothing other than illegal rents.

Those are the four areas our association would like to see addressed in the legislation, and before I take any questions from the people here, I would like to say, on a personal note, that I am not the kind of person who would ordinarily get involved in this sort of thing. I am just an average middle-class tenant in Toronto, but what really struck me when we formed our association was the number of people who came out of those units whom we had not seen in the previous year they had been living there.

They were people who were scared of what was happening to their homes. They were people who felt that enough was enough and wanted to do something about the fact that they were being held hostage by their landlord.

I have senior citizens on my floor. I have people who cannot speak English. They are scared of losing their homes. They are scared of receiving the 30% and 40% increases they have read about in the newspapers. The fact of the matter is they do not know where to turn. They do not have confidence that the bureaucracy will look after their interests.

All they have seen is that their rents go up every year. They have seen their services reduced, and they do not have a comfortable feeling that their homes, whether rented or not, are secure. That is a fairly scary feeling. I am in a situation where I have a choice, but a lot of people in my building do not, and those are the people I would like to feel I am representing here today.

That concludes my presentation. I hope it was not too vague. They are some of the issues that are sincere concerns on the part of the people in my association. I will take questions if you have any.

1620

Ms Harrington: Thank you very much for coming. Your last point about stability and security is exactly why this government is involved in this matter. We believe these are people's homes.

You made the point about the maximum increase each year having to follow a certain guideline, and that going above it is simply justifying bad business decisions that people have made. That is a very interesting point, but I would like to show you that in the real world, and I believe it, we have gone as far as we can go, that we are doing as much as we possibly can for the rights of tenants.

I assure you that we are noting down all the suggestions you are making, as well as those from other people. I am trying to condense them into as short a list as possible to discuss with the minister and our staff regarding amendments to this bill. One thing you mentioned, the 10-year review loophole, is certainly a concern.

Mr Keene: Can you elaborate on that as a concern?

Ms Harrington: At this point I am afraid I cannot. Would anyone else like to speak?

Mr Tilson: Regarding the automatic inflationary increase you have suggested, as was indeed promised by the NDP in the last election, the principle of it was, of course, to cut down on bureaucracy. If you have an automatic increase, tenants would have a fair idea of where they are going, and you get rid of all that paperwork.

An automatic inflationary increase will not deal with a situation where there are buildings that do not warrant any increase. Everything may be the same from year to year. It will not deal with a situation that, for whatever reason, may warrant a decrease. It will not deal with the other side of the coin, a situation where rents may be too low; I am talking about the chronically depressed issue that I am sure you have heard debated. You may acknowledge it or not; the fact of the matter is it is there.

Why would we be giving increases, to take one example, to a landlord who does not need them?

Mr Keene: Your point is well taken, but it has been my experience, David, in this building and others I have lived in, that I have never seen a decrease in rent. I have never seen effective enforcement on the part of rent review services. I have only seen rents go up by the allowable maximum every year, year in, year out; that appears to be reality.

Tenants can complain until they are blue in the face about reduction in services, or getting a building inspector out to complain about building code violations. The fact of the matter is that the rent goes up 5.4% every single year, so the reality is that it is going to happen in 90% of the cases. Let us cut the bureaucracy and just give them inflation and that is it. Treat them like anybody else in society.

Ms Poole: Thank you for your presentation. I was quite interested in your comments about the rent registry in particular, your concern that the onus of proof is on the tenants to verify whether the maximum legal rent is correct.

Mr Keene: And the tools are not there.

Ms Poole: The tools are not there to enforce it. I would be very interested in your suggestions as to how you see it as workable without creating a big bureaucracy, without having a nightmare of paperwork. How do you see it working if the tenant does not have to verify?

Mr Keene: I have a few ideas on that subject, Dianne; thanks for asking. If you bear with me, one suggestion was that if you are going to put a piece of legislation or a regulation into effect, then there is a corresponding responsibility on the part of the government to make sure it is enforceable, to make sure it works, and I believe that.

I would suggest that if you are going to find out what the real rents should be, then you have to go back to the source. If that requires going to landlords and simply getting their cancelled cheques from units to find what they have paid over the last ten years, then maybe you should force landlords to open up their books and find out what kind of revenues they have been receiving from tenants, and compare the two.

They can complain about invasion of privacy as much as they want, but they are forced to do this for their income tax every year. They are forced legally to keep these records for a minimum of seven years. If you ask me, you would get a lot more accurate information that way than asking tenants to verify that the rent is legal and if it has been legal for the last 15 years or whatever.

That is one suggestion. The other suggestion I would make very quickly is that since hotels are required to post their legal nightly room rate—say, \$65 per night—why not have landlords post what their legal rents are supposed to be in each and every unit, and make it a law?

The Chair: The committee wishes at this time to address a motion by Mr Tilson.

Mr Tilson: I have listened to some of the comments made specifically by the government members and I understand their concerns. Perhaps to alleviate some of those concerns I would propose an amendment to the resolution. I would delete the word “offer” in the second to last line and the entire last line and replace it with the words, “answer questions members may have”.

The Chair: Since this was a friendly motion and since there seems to be no objection, why do we not have discussion on the amended motion and then we will call for the vote. Any further discussion on Mr Tilson’s motion?

Mr Duignan: Just a point of clarification. Is this one motion or two?

The Chair: We are just voting on the second portion of the motion. We dealt with the first motion.

Mr Tilson moves that the members of the general government committee invite Mr Bob Bentley, Rent Review Hearings Board member of the northern region, to attend the hearings on Bill 121 and to answer questions members may have.

Mr Tilson: Mr Chairman, I did ask for a recorded vote.

The Chair: That is correct.

1630

The committee divided on Mr Tilson’s motion, which was negatived on the following vote:

Ayes—4

Brown, Poole, Sola, Tilson.

Nays—6

Abel, Duignan, Hansen, Harrington, Mammoliti, Winninger.

Ms Poole: I gather part of the concern of the government members is that Mr Bentley is currently employed or has an order-in-council appointment by the government and this might jeopardize his future impartiality in completing his work. Would it be acceptable to government members if we looked for a former Rent Review Hearings Board member who would be willing to appear before our committee and answer questions, just to get the hands-on information of people who have worked in the system?

The Chair: If the members are seeking any advice from the Chair, the only thing I would say is that we often have persons appointed by the government to answer questions before committees. The chairperson of the Workers’ Compensation Board, who is appointed, comes before a committee; the Ombudsman, who is appointed, appears before a committee; the chairman of the Liquor Control Board of Ontario, who is appointed, can be called before a committee.

This is a question that individual committees themselves must decide. I think the matter has already been dealt with.

Ms Poole: I think the chair has made a good point and I really cannot quite comprehend why the government members are not supporting this. Apparently Mr Bentley is willing to come and it has been amended to say that it is just simply to answer questions. But if they have an objection simply because he is currently with the Rent Review Hearings Board, if that is their objection, I am trying to find a way around it.

The Chair: But we have already dealt with the motion. I do not think we can have another discussion on the motion that has been put forward and voted on unless there is a new motion by someone at present, which we cannot accept anyway because the allotted time has expired. Our next witness has appeared in the room and unless there is a notice of motion that committee members want to present at the present time or anything other than what we have already voted on, we are just going to move forward.

Mr Tilson: If we are allotting time I would accept Ms Harrington’s proposal although I find it, with all due respect to her, unacceptable. But if that is the best we can have then I would like some sort of substantial presentation made by ministry officials explaining the two systems, by someone who would be informed enough to answer questions that members of this committee may have. If there is someone on the staff who feels he is competent enough to answer those questions—a second or third best alternative; I am always prepared to consider second and third best alternatives—I would find that useful.

Ms Poole: I just think that is a waste of time. I know staff is very knowledgeable, but that is not the purpose of this. At least my understanding is we wanted to get somebody who had actually worked in the field, who had dealt with appeals, who had dealt with actual cases to give his perspective on this legislation and ways in which we could improve it, or ways in which the legislation is strong, to support it. To go back to ministry staff who drafted this legislation and ask them for their comments is not quite going to do it. I would far prefer to go to a former Rent Review Hearings Board member and, Mr Chair, when time next allows, I will be bringing a motion to that affect.

Mr Mammoliti: I think that presenters over the past week have been experts. We have had a number of tenants associations that have represented their tenants at the board. They have given us all kinds of suggestions. We have also got landlords who have been to rent review and have given us all kinds of suggestions. With all due respect to that argument, I would say that we have already listened to a number of experts.

The Chair: Maybe I have been a little lenient all the way around. We have had a motion, an amendment and the vote. We are discussing something the committee has already decided, so my apologies, Mr Mammoliti. Unless there is something new, we are going to call a witness.

HAVENBROOK REALTY CO
AND MORRAY INVESTMENTS

The Chair: Mr Shiff, the committee has allotted you 15 minutes for your presentation. You can withhold some time for questions and answers if you wish. We would ask you to identify yourself for the record and the floor is yours.

Mr Shiff: My name is Lorne Shiff. I work for Havenbrook Realty Co and Morray Investments, as I have noted here on this paper. You will notice that there is a "we" in here most of the time. I am referring to our company. I was also going to be accompanied by another person, but it is just myself.

Morray Investments and Havenbrook Realty have owned and managed apartment buildings in the Metropolitan Toronto area for over 30 years. We have some major concerns with Bill 121 and I will be able to touch briefly on those in this short period of time. I will talk specifically about two apartments buildings we own that are 25 years old and have 154 suites each. When I refer to my examples, I am talking about those buildings. They are located in North York in Metro Toronto.

Bill 121 states that landlords must spend 2% of the guideline increase each year on capital expenditures, with an additional increase of 3% above the guideline allowed for capital expenditures or extraordinary operating costs for a total of 5%. This represents approximately \$50,000 worth of work for our two buildings. We currently spend a full 2% each year on capital expenditures for ongoing upkeep of the buildings. Therefore, in order to do necessary work beyond that of normal upkeep, the 3% or \$30,000 would be the limit for the amount that could be spent.

Prior to the introduction of Bill 4, Havenbrook set a program in place for work to be done on the buildings

ranging from new heat-circulating pumps to new stoves to a new security system, which was a specific request of the tenants. A disclosure notice was sent out and a meeting was held with the tenants' association to review the planned work. The tenants were in favour of having the work done.

Bill 121 as it reads will not give us the opportunity to provide the tenants with an upgraded security system or the majority of the other planned work. In our case, which is quite a typical one, \$30,000 to \$50,000 is not enough money to complete major projects. The result will be an increase in costs for doing such work. I refer to some figures here, and the figures represent \$64,000 for a contract which was supposed to be let, a price we receive for doing asphalt and curb replacement work. In order to do this work under the present legislation, we have split that into two contracts for a total of \$69,000, an increase in cost of \$4,500.

Prior to putting our program of work together, we hired a consulting engineer firm to prepare a report detailing the work that should be done in order to maintain the building services at the same or better levels than they were for the first 25 years. This is one excerpt from that report:

"Each building has three booster pumps to ensure adequate water pressure on the upper floors of the building. In each case two pumps are original and one new replacement pump has been installed.

"The original pumps are beyond their normal life expectancy and should be replaced. We recommend that two new duplex booster pump sets be installed in each building with the third circulating pump retained as a back-up unit for emergency use."

The cost of this portion of the work is \$28,000 alone. This represents one small portion of the mechanical and electrical work we were planning on doing.

It is clear that with a limit of 3% above the guidelines there is not enough money to do work properly and efficiently. Because 3% translates into such a small amount of money, we would make an application each and every year for that 3%. What that would mean would be a lot of work for the rent review offices, consultants and the landlord.

Bill 121 provides landlords with 30 days to rectify any work orders. This is an unrealistic time frame. For example, we received a work order to replace all our railings in the stairwells. It was a 30-day process to get pricing. Actual time to complete work was 90 days. From the time we received the work order to the time we issued a letter of completion was 145 days. The 30-day time frame is unrealistic. This bill does not address the right to appeal work orders. There must be some right to appeal. This system of rent penalties for outstanding work orders gives tenants an incentive to cause malicious damage to try and gain rent reductions.

Sections 113 and 114, duties of inspectors and search warrants, presents a great concern to us. We operate a business which should not be subject to interruptions by inspectors. These sections will give impetus to those tenant activists who presently look for ways to disrupt landlords' offices and employees. There are people who make a living by representing tenants trying to get rent reductions. These

sections provide ideal vehicles for these people. Sections 113 and 114 must be removed.

In closing, I would ask the committee to carefully examine all the implications of Bill 121. It is important to examine the long-term effects of policy, and in this case Bill 121 does not look good. The aging rental housing stock in Ontario is in great need of continued repair and upgrading, and as it is written, Bill 121 does not allow for this to take place.

I thank you for your time and would be happy to answer any questions.

1640

Mr Brown: Thank you for appearing. We heard from the chamber of commerce, which come before us first thing this afternoon. They really presented two scenarios. I asked another presenter about them and I said, "What are you going to do if given 121?" and the answer given was: "We're not going to do any repairs. We're not going to do any maintenance other than what we absolutely must do." You are giving me the chamber of commerce's B answer, which was: "We'll get 8% every year. We'll go out and do what it takes to get 8% and that's all we'll do, but we will do that every year." Did I understand you correctly?

Mr Shiff: That is what the bill will force us into doing; correct. The buildings are 25 years old. A building that is 25 years old needs a certain amount of work done to it. When these buildings were built, there was no rent review in place. If you were building a building today, you would put a pro forma together that tells you the rents you have to achieve if you are going to spend X number of dollars. Today, if I need to spend X number of dollars to keep those buildings in a certain state, and I would prefer they stay in a top-notch state, then I have to know I can achieve certain rents from that. Right now I cannot, unfortunately.

Mr Brown: So I can understand that you think you will do enough work to get the 8%.

Mr Shiff: Correct.

Mr Brown: Does that mean this is going to be more expensive to your company and hence to the tenants, because you are going to be doing the work based on a formula the government has imposed rather than a realistic formula that you would have chosen to keep the buildings in good shape.

Mr Shiff: The costs will go up because of that, yes.

Mr Winninger: I would like to focus, Mr Shiff, on another area of your submission, and it is this fixation that I have heard several times from landlords about this 30-day time period to rectify work orders.

Surely the landlords will understand that by the time the work order goes to the office of the ministry there has already been a reasonable and sufficient time limit allowed by the municipal inspectors. If that time limit proves to be unreasonable, and you have given a plausible example of that, surely the landlord should go back to the municipal inspector before the work order expires and let the inspector know that the time should be extended. This prevents landlords from blatantly ignoring the work orders issued by municipal officials, and by the time the 30-day period

starts to run a reasonable amount of time has already expired to get that work done. I wonder if you could respond to that.

Mr Shiff: I agree, for example, for a painting area or a plastering area. I disagree for outside work and it is the dead of winter when work cannot be done. I understand that there is a concern that there must be some backup for work. If it is a year's period, no one will do it, or a lot of landlords will not do it; there will be no incentive. Unfortunately there are those landlords that are spoiling it for the rest.

If you leave it at one period for both major and minor, that is a difficult problem for landlords. Maybe, then, correct the smaller items; incidents like plaster repair, painting repair, should have the lesser time frame, but major work must have a longer time frame.

The Chair: Mr Mammoliti, because you have been so co-operative today, I am going to allow you one short question.

Mr Mammoliti: Thank you very much, Mr Chairman.

Interjections.

Mr Mammoliti: I do not want to take up my time here; I want to ask the question.

I am a little distraught at that. Landlords come in here and rant and rave when people say they have been abusing the system for years. When I say that, they say: "No, that's not true. We haven't. Only a handful have." Yet you are the third person to come in front of this committee and say that even though this legislation still is not in place, tenants will abuse and will break. I just find that a little contradictory, do you not?

Mr Shiff: No. I find there are good tenants and there are bad tenants and there are good landlords—

Mr Mammoliti: Then why did you make that statement?

Mr Shiff: Because if you take two examples—

The Chair: Thank you. Mr Tilson.

Mr Tilson: Over the next two or three years, in the planning for your building, do you have any specific plans for making capital expenditures or capital improvements to your building?

Mr Shiff: Yes, we do. Before Bill 4 was introduced we had a program set in place for a tremendous number of capital expenditures over a period of time which, as I said, were discussed with the tenants. The rent increases were discussed with the tenants and the tenants' association was in agreement and actually asked for a few more things.

Mr Tilson: Having seen Bill 121, do you still intend to proceed with those improvements?

Mr Shiff: I will be able to improve with a small number of them and only those that are very essential. We will not be able to improve with those that the tenants were requesting, such as a security system, because they are not at the top of the priority list as far as heating, ventilating, water and electrical systems are concerned.

ONTARIO COALITION AGAINST POVERTY

The Chair: The next presentation is by the Ontario Coalition Against Poverty. We will be following the same procedure, 15 minutes. You can withhold some time for

questions and answers. We need both of you to identify yourselves for the record.

Ms Hayes: My name is Marnie Hayes. I would also like to introduce Bonnie Briggs, who is a member of the Ontario Coalition Against Poverty. Before we get into the nitty-gritty of the legislation, Bonnie is going to introduce our organization.

Mrs Briggs: I am a member of OCAP, which is the Ontario Coalition Against Poverty. It is a province-wide organization of 50 grass-roots antipoverty organizations. We have worked to help try to eliminate hunger, homelessness and poverty, all of which I have experienced.

I have been homeless in the past and am presently living in poverty. My husband is between jobs right now. He just had a job interview today. I will find out tonight if he has a job. I am unemployed at the moment. I am involved in OCAP, as I said, plus a number of other antipov-erty groups. I am not getting paid for what I do. I do not do it to get paid for it. A lot of our income goes for rent and we cannot afford big increases. I do not know if a lot of you people have ever experienced poverty or homelessness. We ask you not just to listen to the poor landlords, but to listen to the poor. Walk a mile in our shoes. I will turn you over to Marnie Hayes now.

Ms Hayes: Bonnie has been at Mulroneyville, the tent city that has been down there. More of those people would be here supporting us today, but they are down at tent city.

Before talking about Bill 121 itself, I just want to talk a little bit more about the housing crisis in Ontario and the fact that the majority of renters in Ontario live in market rental housing and do not live in subsidized housing. Also, the majority of poor people live in market rental housing. It is the position of OCAP that any rent increase above a raise in tenants' income is not affordable, and this legislation will erode the long-term affordability of rental units.

Within the framework Bill 121 is written in, and as it already includes a cost pass-through system, we will make our presentation based on that legislation. Our position is that the cost pass-through system will erode the affordability and that tenants cannot afford to pay rent increases above the guideline, above inflation every year. Within that we will make our presentation.

1650

Looking to my written brief, we have pointed out that in the legislation there are two guideline increases, for the large buildings and the small buildings. It is our position that having two guideline increases is discriminatory to tenants who live in buildings of less than six units. It is our position that there should be only one guideline increase per year in order that tenants in smaller buildings are not discriminated against. We say that because there does not appear to be any evidence that in buildings with less than six units landlords have higher costs. There is no evidence of that. There are usually no superintendents in smaller buildings and there are usually no elevators. The costs to do things such as snow shovelling and groundskeeping are usually lower because the people who live there usually do those things. Before the bill passes, we would like to see concrete evidence to show that both guidelines are needed.

Also, with respect to smaller and larger buildings, in Bill 121 there is a carry-forward for a three-year period for smaller buildings. We believe that is unfair and unnecessary. With respect to carry-forwards in general, our position is that they should not exist, the reason being that carry-forwards allow for rent increases every year for two or three years, depending on the size of the building. That is unfair to tenants. We believe the landlord should have to reapply every year in order to get an increase.

Bill 121 appears to wipe out the moratorium on rent increases that Bill 4 gave to tenants, the relief that was given to tenants under Bill 4, and we strongly object to that. We believe the relief that was given to tenants under Bill 4 should be reinstated in Bill 121. It should be allowed for and tenants should have that temporary relief.

With respect to capital expenditures and the 3% cap, as mentioned, we disagree with cost pass-through as a principle. However, if there is pass-through, we believe landlords should have to prove they spent the 2% that is already existing in the guideline before they can apply for the 3%. Not only that; there is talk about the fact that landlords will not make any capital improvements if they do not get money for them. We submit that there is already money in the guideline. There was money in the previous guideline. There has been money there and there will be money there and that is where they should get their money from for capital improvements, the allowances. So they should have to prove that 2%.

In Bill 121, the definition of what is eligible under capital expenditures: We believe you should very stringently examine that in order to tighten them up and make sure that operating costs cannot be included in those capital expenditures.

With respect to costs no longer borne, if landlords pass through the cost of capital expenditures to the tenants, once those appliance costs or whatever have already been spent, those costs should automatically be removed from the rent, we believe; that is, costs no longer borne should be removed.

There is a provision in Bill 121 that allows for a landlord to go to the tenants and get the tenants' consent to make capital improvements in their units. We strongly object to that provision because we believe that could lead to abuse by landlords of vulnerable tenants whose language may not be English as a first language, or who may not be able to get a rental unit because the landlord may be looking for tenants with more money who would consent to capital expenditures being done in their units. We feel that is something that is discriminatory or could result in prejudice to low-income tenants. We recommend that be removed.

With respect to the maintenance provisions in Bill 121, we applaud the bill for its strong intention to try to ensure there is a rent freeze if maintenance standards are not complied with. We think that is a wonderful idea. However, our experience with municipalities across the province, in enforcing existing standards or where there are not existing standards, makes us feel you should investigate that part of the bill and really tighten it up to ensure that standards are enforced and that inspectors are put on the job, to go out and enforce standards or enforce provincial standards on municipal standards. We feel that is very important.

In addition, upon looking at the bill, you can see there may be some loopholes that allow for abuse of the particular maintenance provisions. For example, there is a stay on work orders if the landlord appeals the work orders. There is a lot of room for stalling the freeze on a rent increase. We ask that you investigate and tighten up those provisions.

With respect to the exemptions under the bill, we believe all units should be covered, including municipal and non-profit housing. Having worked with many tenants in municipal non-profit units in not-gear-to-income units, we see that tenants get rent increases they cannot afford. Municipal non-profits in Ottawa and Toronto, for example, are not particularly accountable to anybody and therefore should be covered under the act. The same goes for private non-profits.

Our position with respect to new buildings is that they should be covered under the act.

I guess we have four minutes left. With respect to rent registry, we submit that all units should be covered and that tenants, for example, Bonnie, in a one-unit or two-unit building, should be able to go to the rent registry and find out what their maximum legal rent is. All rents should be registered. As well, buildings with four, five and six units should be registered as of 1985 when the previous legislation was enforced.

With respect to the hearings and procedure in general, we believe that hearings should occur unless all parties agree to an administrative process, the reason being that tenants often receive landlords' applications. It is hard to organize, and it is hard to get organized, around whether there should be a hearing and whether they should apply for a hearing. If there is an automatic hearing, then that would allow for tenants to have their voices heard more fairly.

Finally, we ask that all the forms and procedures be simplified considerably under the act so that it is accessible to more people.

Mr Tilson: Thank you for your comments. The technical positions that you are putting forward I certainly find helpful. One area I do have some difficulty with is that an organization such as yours that is representing the poor, the unemployed, people who cannot afford increases—I asked an individual earlier the same question and I ask you the same thing—people cannot afford clothing, cannot afford food, certainly cannot afford housing, and yet your group—or you; I do not know whether it is you or your group—is advocating increases. Is that the way to solve what I submit is a social problem—and you do have social problems, people who cannot afford anything.

1700

Ms Hayes: You are saying that we are advocating what?

Mr Tilson: You appear to be advocating increases; in other words, automatic increases. You appear to be supporting that position.

Ms Hayes: I do not understand what you mean by automatic increases.

Mr Tilson: You appear to be supporting the position that has been put forward by the NDP in the past of an

automatic increase in rent, unless I have misunderstood what you have presented.

Ms Hayes: No, I am saying that we are not disputing a guideline rent increase that a landlord could automatically impose each year, provided they give proper notice. We are not disputing that.

Mr Tilson: Why would you even agree to that when you know the problem is poverty?

The Chair: I wish I could let it go on, but I cannot.

Mr Brown: Your brief is I think very comprehensive and lays out your positions quite well. I would ask you, though, do you see the provisions of this bill, even if all the amendments you would like go through, as providing more affordable rental housing to the poor of Ontario two or three years down the road after it is implemented? Do you think that would occur? Do you think the choice would be there? Do you think that more people could be accommodated at a reasonable cost?

Ms Hayes: I think that rent control legislation is not necessarily aimed at producing more housing. I think that producing more housing is an absolute necessity, coupled with good, strong rent control legislation, for a policy that will house all the homeless and provide secure affordable housing for everyone.

If you are suggesting that if we eliminate this it would produce more housing, I say no to that, because we can look to BC and see where there is no rent control legislation at all and where no more housing has been produced. I think that the cost to produce housing is very high and I think that we have to look to government to look at spending more money on housing.

Mr Abel: I would first like to comment on the buttons you are wearing, which read, "Housing is a Right." I could not agree with you more.

My question is for Mrs Briggs. At one point you mentioned that you were rendered homeless. Would you mind sharing with the committee how that came about, briefly?

Mrs Briggs: Yes. In November 1986 our landlord informed us that he had sold the house. We did not find out until after the sale had been made. We were told we had from that November to the following March to find something, and we could not find anything. A lot of places either had long waiting lists or they would not take two people, my husband and I. They would take either him or me, but they would not take both of us.

Mr Abel: So in your opinion, according to your presentation, although Bill 121 is not quite perfect, do you feel it is a step in the right direction?

Mrs Briggs: I feel that 3% plus the guideline, which adds up to roughly 9% a year, is not appropriate at all. It is only going to result in more homeless people. There are thousands out there now who are homeless. We do not need any more.

The Chair: Thank you for your presentation this afternoon.

FRANK MARCOCCIA

The Chair: Frank Marcoccia is next. Frank, we will follow the same procedure. There is 15 minutes for your presentation. You can withhold some time for questions and answers. We are running to a tight schedule. You have to speak into the microphone or Hansard will not be able to pick up your comments.

Mr Marcoccia: Thanks. I am a landlord and I would like to give a couple of examples of some properties that I own and how this bill will affect us and our tenants.

The Chair: You are representing yourself, no organization?

Mr Marcoccia: I am representing our family.

The Chair: Very good. Thank you.

Mr Marcoccia: Our first case is 22 Leopold Street, which is in the Parkdale area of Metropolitan Toronto. We purchased this property in July 1987. In 1988 we made an application for a rent increase above the guidelines.

As a direct consequence of Bill 4, I would like to point out that as of February 1, over \$4,000 in phase-ins were wiped out because of Bill 4. This represents a financial loss out of my pocket.

I would also like to point out that this is only for the first year of operation of this property. I would also like to point out that since July 1987 we have made [inaudible] with this property. Also, last year, we undertook major capital expenditures on this property.

One of the purposes of this project was to go to rent review afterwards and get equalization for tenants 1 and 2. Because of our renovations, these are identical apartments. At this date, I would like to point out that tenant 1 is paying \$1,235 in rent, while tenant 2 is paying just over \$1,000 in rent for the identical apartment. I think this is a case for equalization.

This slide basically shows what we did. It is a beautiful building with beautiful apartments, and the tenants are very happy.

There is a second case. We recently purchased a property on St Clarens Avenue in the north Parkdale area. Just to give you some details of this acquisition, we purchased it in April 1990 at a cost of about \$345,000. The average rent was about \$320 a month, and all we paid was for hydro.

I would also like to add that the average tenancy is over 15 years, and some tenants have lived in this apartment for over 30 years. We had a business plan for this property. First was to increase the rents to cover our costs. We did that; we went to rent review and got our application number.

The second part was to rehabilitate the building, using any profits it generated [inaudible]. I would also like to point out that all our tenants were fully aware and in support of our business plan until Bill 4 came along.

After our first year, the closing balance on the financial loss for this property was over \$18,000 as of April. I think this is a blatant disregard for losses. How far can you expect me to carry these losses?

I would also like to point out the consequences of this. I think the rule on capital increases is clearly unworkable. We are all aware of the 10% increase over two years. When I show you some photographs of the property, you

will realize that this will come nowhere close to covering what is required for this building.

As other people have stressed, [inaudible] what happens in three years when [inaudible] operating costs are 55% of gross income, the GST is really taking another bite, and there is inflation and extraordinary operating costs, not to mention taxes, hydro, gas and so on.

1710

These slides are not very clear so I will just go through them quickly. This is the property in question. It is unfortunate you cannot see this, but shortly after purchasing it we brought in a structural engineer to give us comments on the building, and the building is very solid. We want to upgrade the fire safety requirements. We will be lucky enough to do the roof. We would like to do some other things. We would like to retain the structural integrity of this building. I think this building could really be improved; however, without that assistance, I do not think it will last the next decade.

I would also like to point out that in the short term, we lose; in the long term, our parents will lose. I would just like to say that I think this legislation is oppressive, it is destructive to the industry and it is shortsighted. Thank you for your attention.

The Chair: Thank you for the first part of your presentation, Frank. We now have questions.

Mr Winner: You used the word "oppressive," Mr Marcoccia. You described how these nine apartments were occupied by people of 15 or 20 years' tenure, paying approximately \$320 a month, on average. Is it not oppressive to these tenants to have some new owners acquire this property, probably with considerable financing, and then pass that financing cost through to the tenants? You did mention you had a financing loss of \$18,000.

Mr Marcoccia: No, that is a financial loss; it includes the financing and operating costs for the building.

Mr Winner: Financing and operating costs, okay. You also estimate that your operating costs were running at about 55% of rents.

Mr Marcoccia: That was in the first year of operation.

Mr Winner: When you purchased that building, you would have, of course, anticipated some increase in the capital value of the building, so that if you sold it, you would actually reap the gains.

Mr Marcoccia: Our goal was not to sell the building. Our goal was to maintain [inaudible] for the tenants who, supposedly, 10 or 20 years down the road—

Mr Winner: Given that you can perform some capital work, and claim it, pass it through to the extent of the additional 3%, plus the 2% included in the guideline, there is no disincentive to you to complete the work that you planned to complete to ensure that the building can last a good many more years.

Mr Marcoccia: We consulted our tenants and they are in full favour of it.

Mr Tilson: On the subject of the transition period or the window that is suggested in section 16, dealing with the retroactive issue of items that are caught perhaps at Bill 4,

I would like you to help me, because one of the areas that I see with respect to this section is that it does not assist individuals or owners who were caught doing work in 1989. It does not deal with that. In other words, it has to be after January 1, 1990.

Second, this whole issue of neglect comes forward. You could have followed the rules, done the work, and someone will come along and say, "Oh well, you did it, but it was neglect, and therefore you're not going to get it." Are there any other areas that you see in which this section is defective?

Mr Marcoccia: I have to agree with you. I think neglect is a problem, and that was the case in St Clarens previous to our ownership. We are not neglecting the building.

Mr Tilson: What do you mean? You mean as a result of previous owners there was neglect?

Mr Marcoccia: Yes, the previous owner owned the building since 1964, I believe, and he let it go; neglect.

Mr Tilson: So you bought it and have now done the work—

Mr Marcoccia: No, we have not done the work. We would like to do some work. We lost over \$18,000 operating in the first year. To be honest with you, if the building were to collapse tomorrow, the lot would be worth more without the building than with the building.

Mr Tilson: In answer to your final question, Premier Bob intends to buy you out. That is what he is going to do.

Mr Marcoccia: Is that what he agreed? That is all right with me. He can have it.

Ms Poole: You have made a number of points quite graphically. You did make one statement that under Bill 121 there is clearly an unworkable limit on capital increases. Do you have any ideas you would like to share with us as to what you think would be workable?

Mr Marcoccia: I think in a case like this where work is obviously required, it should be increased slightly. The existing rules that were there were fine. You take the monthly expected capital expenditure—for example, if you buy a new fridge. A fridge will last 10 years. It is the tenant that is getting the use of the fridge, not me.

Ms Poole: I was thinking more in line of the cap that has been proposed, which is 3%. I think it is clear that you do not find that—

Mr Marcoccia: There are two problems with that. The first is that it is a limit of two years. I am already carrying the burden of a loss here. If I were to go and spend \$75,000 on this building, just to try to keep the water off of it, I would be losing the lot. After two years, this 3% increase will only total half of my expenses on top of the capital expenditures, let alone the loss of carrying it.

The Chair: Thank you for your presentation. Your time has expired.

The next witness is Dennis Wharton or Jennifer Lewis. We will take a brief recess.

The committee recessed at 1719.

1730

The Chair: The committee is called to order. I want to inform the committee members that Mr Wharton has arrived and we have been notified that the last presenter of the day, Jennifer Lewis, has informed the committee that she will not be able to attend. So if we have extra questions for Mr Wharton, we certainly have time if there is no objection. Seeing that George is not here, I am sure there will not be any objections to my suggestion. Nothing personal against George, he just objects to everything I suggest, that is all.

Mr Tilson: On principle.

The Chair: On principle.

Ms Poole: Mr Chair, if we have extra time, I would suggest right now we call a vote on my amended motion that we have a former member of the Rent Review Hearings Board come and speak to our committee.

The Chair: As soon as we finish with Mr Wharton, we will deal with your motion.

DENNIS WHARTON

The Chair: Mr Wharton, come forward and take a chair. The committee has allocated you 15 minutes for your presentation. You can reserve some time for questions and answers, and we are pleased to hear from you.

Mr Wharton: I guess I am here primarily as having been a tenant in the past. Currently I am a house owner, but I have the possibility of becoming a landlord in the future. I will admit at this point I have not even tried to read the proposed legislation in detail. As I think you can appreciate, there is a lot in there. What I have reviewed is the explanatory notes that were provided plus a couple of other pieces of information that I have managed to receive.

My concern, on the information that I have been able to gather from what is in here, is that this piece of legislation is really almost anti-landlord. My concern is that there is very little, if anything, that I have garnered out of here which is going to encourage people who are not currently in the landlord business, if I may use the term, to get into it, and there is an awful lot in here which is going to discourage people from getting involved in the future.

Certainly my future potential involvement in a project that we are currently considering—it is only a small one, it is certainly nothing of the Reichmann group's kind of magnitude, but it still is potential rental accommodation in an area that is very tight on that particular facet—I see very little in here that is going to encourage me or anybody else to really want to get into renting properties, and I see an awful lot that is going to discourage people from either getting into it in the future or, if they are currently in there, staying in there. Almost everything in here says that if you are a landlord, you are not in a very good situation here, and if you are a tenant, you are pulling all the strings.

So I would just like to put forth to this committee that I think this particular piece of legislation really has to be looked at, not so much what its effect is today, but what its effect is going to be three, four, five years down the road, when I really believe there is going to be an acute shortage of quality rental accommodation in this province.

This is almost forcing everybody into a slum landlord-type approach. If you are not there now, it almost assumes that you are or should be there and that you are going to end up there, because you just have no way of recouping your investment. Let's be realistic; people who invest money expect to get something back on it. If they are just going to be expected to donate money into accommodation projects with no possible hope of return on it, or myriad legislative requirements are just going to drive everybody absolutely bananas to try to keep track of—they have got no control on how their costing is going to be maintained. Almost everything is totally out of their hands, and I do not see any incentive under that kind of situation to either stay in it if you are currently in it or to get into it in the future, if that is what you are proposing to do as a future investment.

Not everybody is in the rental business to be big-dollar landlords. Some people are looking for long-term retirement money. I do not see that in there. I see a deterioration of value of property, not an appreciation of rental properties.

In a nutshell, this is going all backwards. I really see this whole thing as going backwards. That basically is what I would like to put forward to you as my objections and my concerns about what this is going to do to the rental opportunities in the province. If you have specific questions I would be quite willing within my capacity to answer them, but as just one person who might be a potential landlord in the future, I am really thinking twice about getting involved in such a small way if this is what I am going to get involved in in the next few years. Even though I have got a five-year moratorium, supposedly, on a new project, there are enough little red tapes and little hooks and crannies that are hidden in here where I could lose that five-year moratorium that even that is debatable.

That five-year moratorium is in this particular act. That is not to say in two years from now the government is not going to come down with another one that is going to totally negate that five years and reduce it to two years, one year, three years, whatever. I see very few reassurances in here, but I see an awful lot of deadend alleys.

Mr Sola: You stated that you were a tenant once upon a time, but you approach this bill from the landlord angle. As a former tenant, what would your analysis be? Would it be favourable from that point of view or is that negative as well?

Mr Wharton: As a tenant in the past—this goes back 10, 15 years or so—I felt reasonably comfortable because there was this law of supply and demand which tends to keep things in check. If there is a demand for a particular product or service, then the people will try to get in and fill it. If there is not a demand, they will not.

I see this particular legislation trying to override that basic economic principle. The government is trying to legislate what the supply and what the demand can be, and that to me is a very dangerous thing to do. I think you are going to find there will be an erosion of the supply of the product because there is such a strict control on how the demand is going to be defined.

Mr Sola: So even as a tenant you would not be appreciative of this legislation.

Mr Wharton: No, definitely not.

Mr Sola: I am also interested in a statement you made. You said, if you are not a slum landlord now, you are expected to get there in the future. I wonder if you would elaborate on that, please.

Mr Wharton: Perhaps the term is not “expected to get there in the future,” but I can see this legislation would force people to think very carefully about whether they want to invest future moneys in projects. One of the areas that concerns me specifically in here is the capital expenditures. If you make a capital expenditure and somebody somewhere in an ivory tower says, “No, this is not really needed yet,” then you are not entitled to the increase in rent to cover it, which is that 3% cap, so I am not going to do it anyway if it is a major project.

If you leave it too late, then it is called neglectful, because you neglected to maintain your duties. Then you are going to lose it. So where is this happy medium point? At what point does somebody suddenly say, “Ah, this is no longer an unnecessary, frivolous decision,” and at what point does it become neglectful? I am not sure how I would define that point, unless you have perhaps engineers or people like that come in, but certainly on a small project I could not afford it. We are looking at three triplexes. There is no way I could have an engineer come in every year and give me a full evaluation and say, “Oops, this year you'd better change your roof, because if you wait another year it's going to be neglect,” but if you did it last year, “I'm sorry, that was frivolous.”

Ms Harrington: You brought up several interesting comments. You said that you would think twice about becoming involved in this kind of business, and I say, “Yes, yes, you definitely have to think twice.” This is what we have to have, landlords who think twice and three times very carefully about why they are getting into this business.

Anyone can say, “Great, it's a good investment,” and this is what has happened in the past. We say, “No, it is not an investment as such.” I would like to explain that. The nature of the business may change, which is one of the things I think you are commenting on. What will happen, we hope, are landlords who are in the business not just for investment but to actually be involved in providing housing. That is a day-to-day thing, not just as a long-term investment, but they see this as a worthwhile ongoing business to be in.

I say that any business venture is risky, whether or not you are investing in mutual funds or investing in the corner store. It is risky, and so we ask you to think twice about getting into this business, because we want landlords who are in there to work with people and to do it correctly. We, as a government, want to ensure that there is a good relationship between tenants and landlords.

1740

Mr Wharton: I am glad you used the term “business,” because I think you have to approach it from that basis. As somebody who is involved in several different types of businesses already, when I get involved in a business, I like to have some sort of feeling I do have some sort of control over what is happening with my business; I am not

just along for the ride. Different types of business have different types of control that the owners can hang on to. What I see here are very few opportunities for a landlord really to manage his business. It is almost being already pre-laid-out on how it is going to be managed, and in some ways not a way that really is attractive to potential future landlords.

Ms Harrington: One final comment. I do understand at this particular point in time that there is a certain degree of uncertainty and apprehension because there is a change in the system, but hopefully once the system is in place you will be able to work with us and for the tenants, and help develop the system right now, which is what we are doing with you.

Mr Duignan: Along the lines of others we have heard, do you believe that housing is a right?

Mr Wharton: Certainly everybody has to live somewhere. It is the old thing; everybody got to be somewhere. Yes, everybody has to live somewhere. I guess that is my answer to that one. Yes, there are some rights, because you have to live somewhere. Whether it is on the street or in a penthouse, everybody has got to be somewhere.

Mr Duignan: Following along a presentation made by an earlier presenter trying to deal with poverty, they are even complaining about the 8% or 9% increase under this guideline. There are people out there who simply cannot afford it, and I know our good colleagues in the Tory party have said, "We can deal with that with subsidies to the landlord," or what I refer as to landlord welfare, but that is going to cost an additional \$1.2 billion in taxes at a minimum. Which would you prefer, an increase in taxation to cover that, or some sort of a fair system to both landlords and tenants, as this bill is trying to do?

Mr Wharton: I will break your last comment into two parts. First, I agree with the basic concept of a fair system, but I am not sure this one necessarily is that fair system. I think this one really has got the tail wagging the dog.

The landlords certainly need rights. They are the ones who stand to lose big too. I am not saying they should all go out and buy condos in Florida as a result of every three-unit building they put up, but on the other hand, they stand to lose their investments.

I am also concerned about the erosion of property values as a result of this. People who are marginally mortgaged already, if their property values deteriorate as a result of this, may find they will not be able to renew their mortgages, because there is a very strict formula that lending institutions use, and if you do not meet those guidelines, then you are not going to get your mortgage. If property values go down 20%, 30%, you are going to find people are carrying mortgages that are worth more than their property. At that point, who picks up those properties, when they can no longer afford to carry them?

Mr Duignan: Do you have some suggestions on how to make this legislation, in your words, appear fairer?

Mr Wharton: I think the legislation has to look at the fact that the person investing money, and I do not care if it is in property or steel companies or money market funds or whatever, needs some assurances that there is a reasonably

good chance to get some sort of return on his investment. Otherwise they are not going to do it. There are other ways to invest money than into renting properties. So you have to look at, are you going to attract people to spend their money in this manner? I am not going to go into detail because this is obviously a very intensive document. You just have to look and try to put something in there that is going to make a landlord think he is important in this part of this process, and I do not see that in this document.

Mr Tilson: I think that is the whole crunch, sir, of this legislation and the Bill 4 legislation—we have heard it specifically from the last two individuals who asked you questions—and that is that housing is a right and that there is no need for private investments into the housing industry; no one should be making a profit at the expense of individuals. That is what this government is saying, that private enterprise should get out of the housing industry. In other words, it is following along with being typically anti-landlord, anti-business, anti-investment. If that philosophy continues, and it appears that it is going to continue, based on the fact that the parliamentary assistant, and I assume she has some authority over there, has said exactly that where do you think the housing industry in the province is going to go?

Mr Wharton: I see it going very quickly downhill. Again, it goes back to the incentives. If you do not have an incentive to do something, and for businessmen the incentive basically is monetary, at least reasonably monetary, if that incentive is not there and somebody else is pulling all the strings on what is happening to your money and you have got very little control over it, you have to think twice about why you would want to do it.

I am thinking twice about the project, as small as it may be, about whether we want to get involved in it. I do not know if I want to get involved in this red tape. I do not know if I want somebody else making all these determinations with very little input from my part. And if I am thinking about it, I am sure there are an awful lot of other people out there who are just as concerned, if not more so, and have a much bigger stake in this business than I do.

Mr Tilson: Do you have any thoughts on the complexity of the whole rent review process, the paperwork, the proposed hearings, all of that, as to how a small landlord or a small investor or a small individual getting into the business could handle that sort of complexity?

Mr Wharton: As the owner of several small businesses, the amount of paperwork for government at all levels, not just the provincial level, but federal, with GST, etc, municipal, etc, is just becoming mind-boggling. You spend more time shuffling papers than what you really wanted to when you bought the business, which is to administer the business. Certainly there is a level of paperwork required, but—I guess my basic philosophy, the piece of paper, the only place it does not hurt is in the garbage pail. Obviously that is a little bit extreme, because reality says we cannot operate that way, but again, bureaucracy being the way it is, bureaucracy being a reality, the more bureaucracy you have got, the less seems to get done and the more stumbling blocks you run into.

The Chair: Thank you for your presentation. That concludes the presentations for today. Mrs Poole gave us notice a few minutes ago that she has intentions of moving a motion. If there are no objections, I would recommend that we use the time between now and 6 to deal with Mrs Poole's proposed motion and I turn the floor over to her.

Ms Poole: I would perhaps recommend we delay dealing with this right now. I would like to see if I can contact several former Rent Review Hearings Board members to see whether there is actually somebody who exists who would be willing to come, and second, if he or she would be interested, before proceeding.

The Chair: Why do you not remind the committee of your proposed motion so we can have some discussion on it, possibly now? What is it you want to do, Mrs Poole?

Ms Poole: I have suggested that since the government members seem to have a problem with having a member from the Rent Review Hearings Board attend our committee and give us a perspective of what it is like dealing both with the old legislation and any either problems or assets they see with dealing with the proposed legislation so that we will have that on-the-ground response—Mr Mammoliti made the comment earlier that we had all sorts of experts, tenants and landlords, who had been before the hearings board who could comment, but I would say that I do not think we have heard a lot of testimony that has been from an unbiased, neutral source. Most people who come are partisan, either from a tenant perspective or from a landlord perspective, and it would be quite interesting to have

comments from somebody who is supposed to deal from neither one nor the other.

I suggest that we delay actually having a vote on this until after we see whether there is somebody who fills that category. I am sure there must be people who have left the hearings board, and I would propose that we get somebody who did not leave on bad terms but just a mutual parting of the ways, somebody who could be an asset to our committee hearings.

The Chair: I suggest, before you make phone calls to individuals who may think they may be appearing before the committee, that we might want to have, if not a vote, at least some consensus that it is agreeable. I think it would be embarrassing if Mrs Poole found someone who was willing to appear and then she had to call back and say, "The committee has decided you should not appear." I do not know if that is to your liking or not, Mrs Poole, but I make that suggestion.

Ms Poole: Mr Chair, when have you ever done anything that I did not like, regarding rent control anyway?

The Chair: I cannot think of anything at the moment, but I have to be careful because Mr Mammoliti is back and he is ever-vigilant as to what I do and do not do.

Mr Duignan: Can I make a suggestion that we leave this over until tomorrow, until such time as we have a chance to discuss this among ourselves?

The Chair: It is just a notice of motion. There has been no motion really made and I think your suggestion may be a wise one.

The committee adjourned at 1752.

CONTENTS

Tuesday 6 August 1991

Rent Control Act, 1991, Bill 121 / Loi de 1991 sur le contrôle des loyers, projet de loi 121	G-1189
Ontario Chamber of Commerce	G-1189
Anthony Seljak, Richard Hissey	G-1197
Richpark Investments Ltd	G-1197
Valiant Property Management	G-1197
Beyond the Living Room Committee	G-1197
Sydney Steinman	G-1198
Whyy Mee Family Counselling Foundation of Metropolitan Toronto	G-1200
59 Spadina Road Tenants Association	G-1203
Havenbrook Realty Co and Morray Investments	G-1207
Ontario Coalition Against Poverty	G-1208
Frank Marcoccia	G-1211
Dennis Wharton	G-1212
Adjournment	G-1215

STANDING COMMITTEE ON GENERAL GOVERNMENT

Chair: Mancini, Remo (Essex South L)

Vice-Chair: Brown, Michael A. (Algoma-Manitoulin L)

Abel, Donald (Wentworth North NDP)

Bisson, Gilles (Cochrane South NDP)

Drainville, Dennis (Victoria-Haliburton NDP)

Duignan, Noel (Halton North NDP)

Harrington, Margaret H. (Niagara Falls NDP)

Mammoliti, George (Yorkview NDP)

Murdoch, Bill (Grey PC)

O'Neill, Yvonne (Ottawa-Rideau L)

Scott, Ian G. (St George-St. David L)

Turnbull, David (York Mills PC)

Substitutions:

Hansen, Ron (Lincoln NDP) for Mr Bisson

Jordan, Leo (Lanark-Renfrew PC) for Mr Turnbull

Poole, Dianne (Eglinton L) for Mr Scott

Sola, John (Mississauga East L) for Mrs Y. O'Neill

Tilson, David (Dufferin-Peel PC) for Mr B. Murdoch

Winninger, David (London South NDP) for Mr Drainville

Clerk: Deller, Deborah

Staff: Richmond, Jerry, Research Officer, Legislative Research Service



G-30 1991

G-30 1991

ISSN 1180-5218

Legislative Assembly of Ontario

First Session, 35th Parliament

Assemblée législative de l'Ontario

Première session, 35^e législature

Official Report of Debates (Hansard)

Wednesday 7 August 1991

Journal des débats (Hansard)

Le mercredi 7 août 1991

Standing committee on general government

Rent Control Act, 1991

Comité permanent des affaires gouvernementales

Loi de 1991 sur le contrôle
des loyers



Chair: Remo Mancini
Clerk: Deborah Deller

Président : Remo Mancini
Greffier : Deborah Deller



Table of Contents

Table of Contents for proceedings reported in this issue appears at the back, together with a list of committee members and other members taking part.

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at (416) 325-7400.

Languages in Hansard

Hansard reports all debates in English or French as spoken by the participants. It does not translate remarks made in either language. Headings and tables of contents reflect language use.

Subscriptions

Subscription information may be obtained from: Sessional Subscription Service, Publications Ontario, Ministry of Government Services, 5th Floor, 880 Bay Street, Toronto, Ontario, M7A 1N8. Phone (416) 326-5310, 326-5311 or toll-free 1 (800) 668-9938.

Table des matières

La table des matières des séances rapportées dans ce numéro se trouve à l'arrière de ce fascicule, ainsi qu'une liste des membres du comité et des autres députés ayant participé.

Il existe un index cumulatif des numéros précédents. Les renseignements qu'il contient sont à votre disposition par téléphone auprès des employés de l'index du Journal des débats au (416) 325-7400.

Langues paraissant dans le Journal des débats

Le Journal des débats rapporte en anglais ou en français les débats, selon la langue utilisée par les participants. Les remarques faites en l'une ou l'autre langue ne sont pas traduites. La langue des en-têtes et de la table des matières reflète la langue utilisée.

Abonnements

Pour les abonnements, veuillez prendre contact avec le Service d'abonnement parlementaire, Publications Ontario, ministère des Services gouvernementaux, 5^e étage, 880, rue Bay, Toronto (Ontario) M7A 1N8. Par téléphone : (416) 326-5310, 326-5311 ou, sans frais : 1 (800) 668-9938.

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON GENERAL GOVERNMENT

Wednesday 7 August 1991

The committee met at 1009 in room 228.

RENT CONTROL ACT, 1991

LOI DE 1991 SUR LE CONTRÔLE DES LOYERS

Resuming consideration of Bill 121, An Act to revise the Law related to Residential Rent Regulation.

Reprise du projet de loi 121, Loi révisant les lois relatives à la réglementation des loyers d'habitation.

FAIR RENTAL POLICY ORGANIZATION OF ONTARIO

The Vice-Chair: The committee will come to order. The business of the committee today is to conduct public hearings on Bill 121. The first presentation today will be by the Fair Rental Policy Organization of Ontario; Philip Dewan, president. Perhaps you would like to take your places at the table and introduce yourselves and your organization for the purposes of Hansard. You have half an hour to make your presentation.

Mr Dewan: Actually one of our directors, Florence Geneen, is going to start things off here.

Ms Geneen: My name is Florence Geneen. I am a member of the board of the Fair Rental Policy Organization of Ontario, the largest association of private apartment owners, managers and lending institutions. We represent about 200,000 apartment units across the province.

Let me introduce my associates. Gregory McConnell is a rent control consultant, lawyer and past rent control administrator in Washington, DC, and Berkeley, California. Mr McConnell's background in rent control administration in one of America's most stringent rent control regimes and his more recent work with small property owners give him insight into both sides of the rent control debate. He is especially concerned about the effects of rent controls on poor and moderate income families and minorities.

Peter Sailins is chairman of the department of urban affairs and planning at Hunter College in New York. Mr Sailins is a noted author who specializes in housing policy. His books include *The Ecology of Housing Destruction*, *Housing America's Poor*, and the forthcoming *Scarcity by Design*, which details the politics of rent regulation and explores how strict rent controls in reality help high-income tenants, not needy ones.

I am sure you recognize Philip Dewan, president of Fair Rental. Later on we will all address your questions.

There is a very specific reason we have invited Mr McConnell and Mr Sailins to share our time today. Fair Rental has tried on numerous occasions to warn government officials of the negative fallout of strict rent controls. We have done so in presentations, in meetings and in three written briefs submitted in the last 10 months. We have also participated in public consultations.

For the record, we have been virtually ignored and stereotyped in the most pejorative terms and we have had

to deal with constant misrepresentation of fact. Here is one example. Just last week during these hearings, a tenant group stated that Bill 4 and Bill 121 were essential because tenant incomes were rising much less quickly than rents. This line was eagerly picked up by government members, but no one bothered to check the statement's validity. The information is simply wrong. CMHC statistics show that in Toronto during the late 1980s tenant incomes increased 54% more than rents. Specifically, from 1987 to 1989 tenant incomes rose about 10% while rents rose 6.5%.

We have invited our guests here today in one last attempt to bring a little reality to what to date has been a debate based on myth and on fantasy. Mr McConnell and Mr Sailins will give you a glimpse of Ontario's rental future through the eyes of people who have lived it. The picture they paint is not pretty.

Let me quickly summarize Fair Rental's thoughts on the proposed Bill 121. Then, following our guests' presentations, Mr Dewan will outline nine significant flaws of the legislation and answer your questions.

Quite simply, as we have said countless times since June 6, Bill 121 is a death sentence for a good many private apartment owners in this province. The private sector built and now operates more than 1 million units or about 80% of all rental housing in this province. Why is this government so unwilling to create an environment that would provide incentive for the private sector to remain?

We have sections of this new bill that restrict an owner's right to repayment for capital work necessary for maintaining the integrity of a building. We have sections that disallow rent increases due to uncontrollable rises in interest rates. We have sections that reduce a large building owner's annual rent increase guideline, leaving less money for ongoing maintenance work. We have sections that enable tenants to obtain rent decreases. Is there any other example of this in any other part of the economy? We have sections that empower inspectors to seize documents, unprecedented in the business world. The list goes on.

It is impossible to tell you in one half-hour the entire horrendous impact of Bill 121, first of all, on an apartment owner's ability to operate his or her business, and more significantly, on the tenants who will be deprived of a well-maintained, affordable housing stock. Before Mr Dewan details specific problems with Bill 121 and presents some positive countersuggestions, I would like to reintroduce Mr Gregory McConnell from California.

Mr McConnell: I truly appreciate the opportunity to speak before you and to share my experiences in the field of rent control. I have a great fondness for your wonderful country. Many years ago my family had to seek refuge in this country from American racism and oppression. My grandfather founded a church in Amherst, Nova Scotia,

and married my grandmother, Helen Halfkenny. As a result, many of my relatives are Canadian citizens.

I share this to let you know that my family is personally indebted to the Canadian spirit of fairness to all and protection for the oppressed. In reviewing Bill 121, I truly believe that you have the best in mind for minorities, and that you truly seek to do the right thing by way of low- to moderate-income persons. Unfortunately I have to tell you that based upon my experiences, your good intentions would not bring about a good result.

For the past 10 years, I have served as an administrator and consultant in the field of rent control. I have served as the executive assistant to the District of Columbia Rental Housing Commission, and as the executive director of the city of Berkeley rent control board. We differentiate between rent control measures. We talk in terms of restrictive rent control versus other forms. By restrictive rent control I mean that form which does not allow rents to be adjusted to market upon vacancy.

I can tell you without hesitation and without any equivocation in my mind at all that restrictive rent control does not work. In New York; Washington, DC; Cambridge, Massachusetts; Berkeley, Santa Monica and West Hollywood, California, the evidence has been conclusive. When you impose restrictive rent control, two groups suffer distinctly. Those are of course the rental property owners, and unfortunately, the intended beneficiaries who happen to be, in these cities, minorities, low- to moderate-income families, single parents with school-age children, and the elderly.

Over time, other groups begin to feel the pinch of restrictive rent control. Those groups include the support services or support industries: the carpenters, the electricians, the roofers, those people who repair the properties, normally. Finally the entire community gets involved. As the price of regulations increases, the number of rental units and the value of rental units goes down. Government must then impose other kinds of taxes to fund the regulatory process. At that time, all of your citizens are involved.

During the decade of the 1980s, the above scenario was played out over and over again in American cities. Restrictive rent control has resulted in the loss of thousands of rental units, the displacement of thousands of families, has had an adverse impact on housing opportunities for the poor and minorities, and has cost the few cities that still have such provisions millions of tax dollars for regulatory operations, and even more in lost revenue. Almost every economics scholar of note has concluded that restrictive rent control does not work, and has an impact that is exactly the reverse of that which is intended.

When we speak of the loss of rental units, we are talking about units that are lost by virtue of owners' decisions either to sell to owner-occupants, to allow the units to stand vacant and remain unavailable for rent, or merely abandonment. When we speak of the costs of the program we look at the city of Berkeley, which started its program in 1980 with a modest budget of \$275,000 to regulate 28,000 units. By 1991 that budget exceeds \$2 million—actually it is \$2.6 million—and even with that astronomical increase this city recently announced it was broke and could not continue to

enforce its rent control policy without assistance from the city government.

1020

Santa Monica had a similar experience. It started with a \$500,000 budget in 1980 and now has a \$4.5-million budget to regulate 30,000 units. I am not an economist, but someone can tell you what it might cost to regulate the two million units you have here.

More devastating and more to my point is the impact these regulations have had on the intended beneficiaries. The preambles to all of these rent control programs indicate that they are intended to maintain cultural diversity, ethnic diversity and economic diversity, and to assist the poor, the low-to-moderate income and the elderly.

When we look at the experiences in California we find that Berkeley has lost 36% of its black population since restrictive rent control was imposed. Santa Monica is experiencing a similar decline in its Hispanic population despite the fact that there have been skyrocketing increases in the number of Hispanics in the LA basin in the 1980s.

Santa Monica families with school-age children living in rent-controlled apartments have declined by some 25% and 40% of the students at the University of California who make up the tenants in the city of Berkeley can no longer find housing. These are direct results of restrictive rent control.

Another significant adverse effect of restrictive rent control is that it either creates or makes permanent a process that I call ghettoization. In other words, once the cities become depressed, once the units deteriorate, once the work that needs to be done to maintain the properties occurs, there is no ability for the city or community to shift into a mode where repairs are made.

I look at your bill and I look at the limits and the cap that are placed on capital improvements and I say to myself: "If a property is in fact in a deteriorated state, how will the owner make repairs? How will the property ever be improved?"

There are many cities that have had problems with downturns in their economies: joblessness, homelessness, crime, drugs, etc. Some of those cities rebound. Those with restrictive rent control cannot. They cannot because there is no incentive to invest in housing. They cannot because it also has a similar spillover impact into other areas.

Housing experts in cities such as Toronto have many problems. Homelessness is an embarrassment to any civilized people. Indeed, young men and women are endangered not only due to homelessness, but to crime, drug, unemployment, inadequate educational opportunities, and the AIDS epidemic, which is on the rise.

This is a time, I think, when leaders should come forward with bold new suggestions, new opportunities. It is not a time for political expediency. We all know that rent control has a way of almost guaranteeing votes for politicians, but we also know that it has a way of actually hurting those people whom it was intended to help.

I think it is a time now when the leaders should come forward and show some bold, aggressive programs which will turn the tide. Instead of continuing to allow units and properties to deteriorate, create jobs, restore these properties

create better educational opportunities. As opposed to paying a lesser rent, I do believe that most people would rather have better jobs so that they could pay a higher rent.

Ms Geneen: Thank you, Gregory. Now let me reintroduce Mr Peter Sailins from New York.

Mr Sailins: It is a great privilege to be invited to address this body. We in the United States always see Canada as North America's bastion of civility and rationality and apt to make more intelligent public policy choices than we do in the United States. So I hope that is going to be true in this case as well.

I have been asked to comment on the proposed changes in Ontario's system of rent regulation. I base my comments on my familiarity with the operation of rent regulation systems in New York and other US cities, as well as an understanding of the economic literature on the subject, both with respect to theory and empirical research. Of course, the North American city with the longest continuous experience of rent control is New York. We have had rent control, essentially, for half a century, which I think is more than any other place in the United States.

I have reviewed the materials describing Ontario's existing and proposed rent regulations and I am struck by how similar, indeed identical, are the issues and arguments being raised to those that are raised in New York and other US cities.

The arguments centre on the fairness, essentially, to tenants or to landlords of several standard features, existing or proposed, that are common to all rent regulation systems which set, for example, the size or basis of annual as-of-right rent increases, the justifications for larger than as-of-right increases based on higher than anticipated operating costs or the need for capital improvements, and penalties in the form of rent reductions or freezes for building code violations, which in your parlance are called work orders. Distinctions that place components of the rental stock outside the jurisdiction of rent regulation are under different rules, and always looming in the background are restrictions on the conversion of rental apartments to ownership status.

The best way to evaluate the impact of any changes in such features in a rent regulation system of the sort being proposed in Ontario's Rent Control Act, 1991 is to see whether they increase or reduce the stringency of the system as measured by the resulting differences, the gap between potential market and actual regulated rent levels, and also to see whether changes in these features increase the perverse incentives or disincentives for the behaviour of landlords or tenants.

Most people who have studied or administered rent regulation are well aware of the way in which rent regulation can distort housing markets. Mr McConnell mentioned, actually, very specific instances of these things. Let me just quickly recap them in economic jargon. The most serious, really, is the misallocation of the housing market. The longer rent regulations are in place, the less rational is the relationship between apartment rent levels and, for example, the income of tenants, the relationship of rent levels and the size of apartments, and the relationship of rent levels and the quality and location of apartments, because after a

while we see affluent households paying less in rent than poorer ones, smaller households living in large apartments while larger households have to live in small ones, identical apartments renting for widely varying rents, and high-quality, well-located apartments renting for less than lower-quality, poorly located ones.

In addition to these misallocation effects, the other major distortion of the housing market involves disinvestment in rental housing, disinvestment as evidenced in lower levels of maintenance of the existing stock and a decline in new rental housing production. These disinvestment effects are the result of the downward capitalization: the reduction in the value of rental housing that results from the regulations.

The combined impact of the misallocation effects and the disinvestment effects is to make rental housing scarcer. The increased scarcity creates the potential for high rents at the margin of the rental stock. The margin is either the residuum of unregulated rental housing or the black market.

The point of my recapping these familiar distortions is to note that these distortions are greater the more stringent the regulatory system. Most of the changes being proposed in Ontario's 1991 Rent Control Act are in the direction of making the province's present system more stringent, thus potentially increasing both the misallocation and the disinvestment effects.

Experience in New York and other cities shows that the misallocation and disinvestment effects most harm the very people that government housing policy seeks to help. When rental apartments are scarce it is lower-income families that have the greatest difficulty finding apartments. The larger apartments and the better-located apartments, especially, are inevitably pre-empted by the well-to-do and the well educated, because they move less often and have better information and contacts.

It is lower-income families that will experience the greatest deterioration in their apartments and buildings, because the long-term reduction in property values will most affect their neighbourhoods and because they will be least able to offset deterioration with expenditures of their own. It is lower-income families who will be most likely to pay the higher marginal rents in the black market or in the unregulated sector.

1030

The 1991 act tries to plug some of these disinvestment loopholes—which, by the way, is an obvious recognition of the disinvestment risk—by provisions that punish owners for code violations or for neglect of the capital plant. Those kinds of provisions, which are present in ordinances in the United States, do little to retard disinvestment. They only create perverse incentives: for example, for owners not even to consider making capital improvements lest the very application for rent increase be deemed a tacit admission of neglect; for tenants to exacerbate dwelling-unit deficiencies to trigger rent reductions or freezes that would be based on code violations. In fact, looking at the whole set of provisions, the proposed changes are almost designed to ensure that rental housing ownership will be financially and administratively unattractive for all but those who cannot escape rental housing ownership.

I will conclude by noting that Toronto is still a fairly young and very attractive city, and I am sure the rest of the province is as well. Because your rental housing stock is not very old, the advocates for stringent rent regulation may feel that your housing market will be uniquely immune from the well-documented impact of rent regulation in New York and other long-regulated US and foreign cities.

Perhaps such advocates cannot even envision the concrete form that a stringent rent regulation system's misallocation and disinvestment will take. Let me warn you that the impact of stringent regulation will be felt, and more quickly than you may think, and the resulting inequity and scarcity and decline in housing quality will sooner or later give rise to second thoughts. But, as in New York, once the system is politically entrenched there will be no turning back. This is not the kind of policy you can very easily rescind once it is long established.

Ms Geneen: Thank you, Peter and thank you, Gregory. Now let me introduce Philip Dewan, president of Fair Rental Policy Organization of Ontario.

The Vice-Chair: I would remind you that you have eight minutes left.

Mr Dewan: Right. I am going to speak for two minutes, if I can, and just very briefly touch on a couple of major points with Bill 121 itself.

We have given you a fairly encyclopaedic documentation of the major issues we raise with the bill and our recommendations as to what can be done to correct them. I would like to stress that one of the biggest concerns for us is the cumulative impact of all of those changes that are included in the bill—not just each individual measure, which can be debated on its own, but when you lump them all together and try to look at the effect of that on the operating income of the building and what that means in terms of being able to finance capital work, which is a concern for everyone in the room, you can reach some very startling conclusions.

I would just go through, very briefly, some of the major points and not even touch on all the ones that are there. We would be more than willing to meet with the minister and the committee and individual members of the committee at any time to elaborate on the concerns and answer any questions of the details in the brief.

First of all, the rent-reduction provisions that are in the legislation are one of the less well-known factors in terms of the public debate that are of particular concern. When we talk to the financial institutions, for instance, about the ability to borrow to do the work here, one of their great concerns is that there is no way now, under these proposals, to guarantee the rent roll of the building, to know how much money you are going to be able to get back and provide some surety to the bank so that you can go and get the loan to do the work. We think that to make it workable there has to be some re-examination of those provisions, definitions of things like inadequate maintenance so that people know clearly what they are dealing with, and some penalties in there to make sure they are not frivolous claims launched for rent reductions.

The reduction in the annual guideline is obviously another factor that is of real concern. The 50% number that is

being suggested now for larger buildings—50% of the inflation and operating costs—is something that does not seem to have a great deal of statistical basis behind it. We hired a chartered accounting firm to do a survey of about 40,000 units in our membership to see what the actual operating cost experience was and came out with some numbers substantially different, averaging about 58%, and they range from mid-60% for the older stock to about 55% on average for the newer buildings. That is something that I think you have to take into account when you look at this: either an average that is sufficient to allow all buildings to get the work done or, if you are going to look at giving different operating cost amounts, then you should look at that on the basis of age, which is really the distinguishing factor, rather than any further attempt to divide on size of buildings.

The recommendations cover a lot of the other areas; the importance of the 2% reduction that is being taken off the top on the guideline and how that makes it virtually impossible, in many cases, to finance capital. There is material appended here referring, again, to the stance of the financial institutions and what that is going to mean to their ability to lend, and we encourage you to call people like the Canadian Bankers Association indirectly and hear from them their comments about the impact of Bill 121.

The allowance for the increase above the guidelines: We think the documentation in the brief clearly shows that 3% is not going to be sufficient to finance the work. We have appended the interim study of the city of Toronto's apartment conservation report, which shows that for the majority of the 1950s and 1960s buildings, you are looking at an average across the board of at least 16% to do all the work that is required in the next fairly short while to keep those buildings habitable or up to the standard they deserve. Again, we encourage you to question those people directly on their results. They are not coming from landlords. This is a report done for the city of Toronto by engineers who I think will be before you today, who are not exactly a pro-landlord group. I think the numbers speak for themselves.

The transitional provisions for the people caught by Bill 4 are certainly inadequate. When Mr Cooke was minister, he promised there would be fair treatment for those people and that the dollars that were spent in 1989-90 on capital work, totally according to the law, would be fairly recognized when the new legislation came out. People now are getting back 30%, 40% and in some cases 20% of that. In some cases they are getting nothing at all if they did the work in 1989. That is definitely not fair treatment.

We have suggestions relating to work orders and ways they can ensure that only meaningful work orders can trigger a rent penalty, and there is reasonable time to ensure that the landlord has an opportunity to correct them before a penalty can kick in.

We have talked about the inadequacy of the five-year exemption. Clearly it is not going to mean any new building coming into the stock. Again, that is documented.

Finally, some of the other certainties relating to what is to come in the regulations: If we are going to deal with this bill and talk about it meaningfully, we have to know whether there are going to be changes in the amortization

tables, because that has a huge impact on whether or not you can finance work. We have to know exactly what is meant by some of the very nebulous wordings in the bill relating to inadequate maintenance or neglect and so on.

That is a very brief synopsis of some of our concerns. As I say, you have all the documentation there. I encourage you all to read it and get back to us if you have any questions and we will try to answer what we can this morning. Thank you.

The Vice-Chair: I would like to acknowledge the presence of the Minister of Housing, who is here this morning, and congratulate her on her appointment. Continuing, we have about three minutes, and a minute for the official opposition.

Ms Poole: Thank you, Mr Chair. In one minute, I would like to reserve my question to our two guests from the United States, Mr McConnell and Mr Sailins. You have talked about how restrictive rent controls do not work and your concern that there is no incentive for investment. Given the fact that in many centres in Ontario we still have quite a low vacancy rate, if we were to introduce legislation to change our system to be less restrictive, how could you set up a mechanism to protect tenants until such time as the housing supply was built up and sufficient incentives were given to create this housing? How do you do the two things at one time so that can work?

Mr McConnell: In Berkeley we are apparently working on an initiative we hope to introduce to the voters which would have a combination of vacancy decontrol, that is, allowing rents to rise upon vacancy, coupled with either a tax which would be a subsidy on the vacancy increases, which would go into a housing trust fund to assist low- to moderate-income tenants, or some guaranteed set-aside, or a combination of the two.

I think you are quite right. You do need to have something put on the table to assist low- to moderate-income tenants—

1040

The Vice-Chair: Thank you, Mr O'Connell. Mr Tilson from the Progressive Conservative Party.

Mr Tilson: I ask either of our American guests to respond to this, Mr Sailins or Mr McConnell. I would like to hear your thoughts specifically with respect to municipalities that have encountered the rent control disasters you have talked about, and you have talked about how some of the cities are having very serious financial difficulties. How often does a municipality end up taking over buildings as a result of rent control?

Mr Sailins: New York City took over hundreds of thousands of dwelling units in the latter 1970s mainly as a result of tax foreclosure actions resulting from owner abandonment. Even though there are a lot of complex forces in New York that contribute to that abandonment, rent regulation clearly was one of the major factors. So the city of New York has owned hundreds of thousands of dwellings and spent literally billions of dollars renovating those apartments once it has inherited them.

The Vice-Chair: Mr Duignan from the New Democratic Party.

Mr Duignan: Thank you very much, especially our guests from the United States, for coming up and making a presentation here today.

Our party has always fought for the protection of tenants. We believe Bill 121 keeps our promise to the tenants of this province as well as being fair to the landlords. You may not be aware that we also have a large component of non-profit and co-op housing in this province and that we have undertaken to construct some 35,000 units over the next 12 to 18 months.

A lot of talk has gone on here this morning about what has happened to the rental stock in New York or Berkeley, for example, but what about the large American cities that do not have any rent controls, such as Detroit? How would you explain the difference?

Mr Sailins: In the work I have done, the major comparative city I have used to contrast to New York is Chicago. Chicago, I think, is a much more apt comparison to New York than Detroit in terms of size, its large commercial base and so forth. In almost every index of housing quality and housing availability, Chicago has performed much, much better than New York because of its deregulated housing.

Ms Poole: On a point of order, Mr Chair: We have two expert witnesses here from the United States, and I think we would be remiss as a committee if we did not take advantage of the testimony they could give to us. If it is convenient for our two witnesses, I ask that the committee extend its hearings from 12 to 12:30 so that we can continue asking questions and getting the benefit of their expertise and advice.

The Vice-Chair: As you know, the Chair is at the will of the committee. My instructions are to keep things moving along expeditiously, but if the committee wishes to make that motion, then of course—

Mr Sola: I so move.

The Vice-Chair: Mr Sola has moved that we extend the hearings from 12 to 12:30. Discussion?

Mr Tilson: Certainly these two gentlemen are eminently qualified, from the record they have presented to us, and obviously they have a lot to tell us. With all due respect to our American guests, so often, in many of our social problems, we should be learning more from their errors. Obviously they have some errors to tell us, and I think the few seconds or moments they have are hardly sufficient time to allow them to elaborate on some of those areas. I wholeheartedly support the Liberal motion.

Ms Poole: Mr Chair, it is obvious, from some of the comments our expert witnesses have made, that they have information they could share with us. For instance, I think Mr McConnell made references to the housing trust, a guaranteed set-aside. I would like to know how those work. By the same token, I would like to learn more about what Mr Sailins said about comparisons between various American cities. If the government members vote against this motion, then I think they are clearly indicating they

have their minds made up and do not want any further information or facts to interfere with the decision they—

Mr Duignan: What about tenant groups that want some extra time?

Ms Poole: We can ask them questions about how to protect the tenants at the same time—

The Vice-Chair: One at a time.

Ms Poole: We can ask them questions about how to protect tenants at the same time as we can benefit the housing industry.

Ms Harrington: We certainly appreciate the intent of the motion. Certainly we want to look at and explore as many avenues as possible but, as everyone knows, this committee is on a very tight schedule. In fact, at 6 o'clock tonight we have to catch a plane very quickly to Sudbury.

Ms Poole: What has that got to do with between 12 and 12:30?

Mr Abel: We have other commitments.

Ms Harrington: If there are members of this committee who wish to meet with these guests, anyone would be free to do that. Five or six months ago we had two experts from out of the country here whom we were invited to come and hear. I have even received and read a book from a writer from New York City about the problems in that city. Over the course of the last six or eight months we have had the opportunity to investigate these things. If anyone from the committee wishes to hear further from these gentlemen, they are completely open to do that.

The Vice-Chair: Thank you, Ms Harrington. I think that we have heard from each party.

Ms Poole: I have an amendment to the motion, Mr Chair.

The Vice-Chair: Ms Poole moves that from 12 to 12:30 any members of the committee who wish to attend to hear the two witnesses be free to do so and that Hansard be provided for this.

Mr Duignan: No.

The Vice-Chair: Ms Poole, do you wish to speak to your amendment?

Ms Poole: I think it stands on its own. Whether they agree to the amendment or not, that is the one, with Mr Sola's consent as a friendly amendment, I am proposing to make. They can be free to vote against it and show they have no interest in learning about this subject.

Mr Tilson: This government continually has been claiming that it is prepared to listen to and work with business. Here we have a business group that has come forward with issues that have been raised in other jurisdictions, and I think it is imperative for us to hear their comments. I think the amendment by Ms Poole is reasonable, and hopefully the government will reconsider its position.

Mr Mammoliti: I think it would be a little unfair to ignore my commitments. It would be a little unfair for Ms Poole to put this amendment forth, simply because a lot of us cannot make it and we are a part of this committee. We would like to contribute and hear at first hand what people have to say and perhaps ask questions. If some of us cannot

make it, it is a little unfair for Ms Poole to put this amendment forth.

Actually, I am a little shocked that Ms Poole would do this at this particular time, knowing there is a batch of people here waiting to be heard and waiting for us to listen to them. I suggest we just drop this matter and continue with the agenda.

The Vice-Chair: I think all parties have spoken to the amendment and to the motion. In the interest of time we should call the question.

Mr Tilson: Recorded vote.

The Vice-Chair: Recorded vote. One second while we get a clerk.

The committee divided on Mr Sola's motion, as amended by Ms Poole, which was negated on the following vote:

Ayes—4

Murdoch, B., Poole, Sola, Tilson.

Nays—6

Abel, Duignan, Hansen, Harrington, Mammoliti, Winninger.

1050

ANTRIM TENANTS ASSOCIATION

The Vice-Chair: The next presentation is from Antrim Tenants Association, Jim King, president. Mr King, please come forward.

Interjections.

The Vice-Chair: Children. Order. We have a presenter here in front of us.

Mr Mammoliti: Why have you not listened to the tenants?

Mr Sola: We have, much more than you have.

The Vice-Chair: Mr Mammoliti, Mr Sola.

Welcome to the committee, Mr King. The committee has allotted 15 minutes for your presentation. You may use that 15 minutes as you wish; however, the committee does like to have some opportunity to ask questions and to hear your comments. Those are the ground rules. You have 15 minutes, if you would identify yourself for the purposes of Hansard.

Mr King: My name is James King. I am the president of the Antrim Tenants Association, which is in Scarborough. I am also one of the founding members of the Scarborough Tenants Alliance and an active participant in some of the recent activities that have taken place there.

First of all, let me apologize. I have no colleagues or consultants to introduce. Unfortunately, I cannot afford them. Like most tenants, we cannot afford to hire lawyers and consultants to do our work for us. The previous presenters complained of not being able to point out all their concerns in their short 30 minutes. Being also interested in striving to eliminate the folly and fantasy of submissions, as they suggested we have heard in the past, I regret that I have only 15 minutes to point out some of the fallacies in the presentation they just made.

That aside, I also would like to suggest to Ms Poole that as a tenant living here in Ontario, as well as having a mother who is a tenant in your riding, I too am uniquely qualified to offer insight as to what might be involved in tenant legislation. I think all of the interested parties should be offered that same opportunity and I look forward to hearing your motion at the end of my presentation.

I will try to keep my comments brief, if I can. I do not have a prepared statement, so you do not have it in front of you, but I have done a lot of work in this area. Not being a consultant, not doing this full-time, I am taking the day off work and losing a bit of money for doing this, as opposed to being paid and coming from another country to help carry someone's agenda. All I have to gain by this is a reasonable rent and doing what is right, as opposed to my financial interest in helping my business and that sort of thing.

I want to point out a couple of weaknesses in the previous presentation before I get to my own direct point that I prepared.

Number one, everything I heard works on the assumption that landlords are just barely getting by now and there is not a penny in those rents that can go to anything but expenses. I suggest that is not only a misrepresentation of the truth but quite seriously an error. I think if we had the opportunity to receive facts and figures from landlords, if they were willing to open their books and present some of that information and let us have a look at what the reality of their financial situation is, we might find those are more interesting facts and figures than the studies and comparisons done in the United States, where special interest groups are able to choose their own comparison and choose the sections of the facts and figures they wish to compare and present.

We are talking a lot about disinvestment. We expect to see a lot of disinvestment because of some of these changes that are proposed. I suggest there is enough profit and enough interest in the Ontario housing market that we will not see the disinvestment because the profit is there.

I have, unlike the previous presenter, brought some documentation of my particular situation at Antrim and my particular landlord, who last summer did \$1.3-million worth of repairs to the building and applied for a 24%-plus rent increase. Their submission, their cost-revenue statement to the rent review board, outlined that the \$1.3 million came from personal funds and borrowing was not necessary. This same landlord has just built a rather large condominium complex at the Don Valley Parkway and Eglinton Avenue and has a rather large housing complex that has just been built up in Thornhill. They spent this \$1.3 million out of their own pocket without any borrowing required, and when they suggest to me that it is more fair for the largely retired tenants in my building to fund these expenditures and to pay for the maintenance and improvements on their investment, I have a hard time feeling sorry for them. I am sorry, my heart does not bleed.

I have to get in one last thing before I get into the meat of this. I am trying to move very quickly. I heard CMHC figures quoted as to the difference between rent increases and income increases. Unfortunately, the figures that are commonly quoted from the CMHC do not include in the

neighbourhood of 150,000 decisions on rent increases dating back to 1988 which have still not been made. Those figures quite clearly—if I am aware of it, I am sure they must be aware of it—are not really representative of the whole picture.

Let me get into the specifics of why I planned to be here and what I wanted to touch on. In talking with tenants, real tenants here in Toronto and in Scarborough and in surrounding areas, not in New York and Bel Air and wherever these other places are that were mentioned, their top three concerns came out after seeing this new bill. I wanted to present those because we too have some concerns about the new bill. We support the effort of trying to make some improvements. I think it is a good step. Unfortunately, I do not think the improvements that most of the tenants wanted to see are there. I think there is still some tuning to be done.

I think the assumption that the tenants are interested, number one, in eliminating high rent increases is a fallacy. I think if you ask most tenants, they are interested in eliminating unfair rent increases. There is a significant difference between the two. High rent increases are these unusual, unique situations. We hear of 100% rent increases and that sort of thing, which are not the norm. If you talk to the normal tenant, the average person, the vast majority of tenants have seen their rent increases take place because of capital expenditures. That is where the vast majority of the people have been hit with rent increases, not on these unusual marble lobbies and what have you. I think the concentration on that point has taken away from what the real facts are.

The suggestion that most tenants make is that we want to eliminate the unfair rent increases, not just the high ones. Three per cent is an unfair rent increase if (a) you cannot afford it or (b) you have already contributed more than your fair share to the operation of the building. I think it is a pretty simple concept and I do not think it takes a consultant from California to grasp it. This is unfair versus limiting. I think it is like suggesting that key money, because it is not fair, should be capped at, say, \$500 a unit, that is a reasonable cap to expect to put on key money. If it is unfair, it is unfair. You should not cap it, you should eliminate it. I think it is a pretty obvious point.

One of the previous presenters suggested that we are looking for bold new suggestions. I think there are not any bold new suggestions. There is just the same old one that has been sitting in front of us all the time and somehow it keeps getting passed over. I was pleased to hear in his answer to one of the questions that he suggested himself a fund, a holding back of moneys, providing for those kind of rent increases. I would be willing to grant him one point: I do not think the present bill is going to allow for all of the capital work that needs to be done on buildings, if you include maintaining and improving buildings. I do not see it in this bill. My concern is that I do not see it in my pocket and I do not see it in the pockets of my neighbours in the apartment buildings either. With regard to the suggestion that raising rents is somehow going to help poor people, you can talk that one to death, but it just does

not fly. The simple fact of the matter is that the money is there. It has been there for a long time. It is in the rents.

Previous bills and this proposed bill have made allowances for capital expenditure money. We talk about 1% or 2%. That is no longer 1% or 2%. In 1986 it was 1%; now it is 7% or somewhere thereabouts. Approximately \$50 of my rent goes every month—not in the past. The money is gone. Let's not go after it. Let's talk about next month when I pay my rent. Are we going to ask landlords to fairly take that portion of the rent which is designated for capital expenditures and allocate it to capital expenditures? It seems like a simple concept. This is capital expenditure money; spend it on capital expenditures. I do not see that provision in the new bill either. If he makes an application, he has to spend his 2%. No consideration is given to the fact that that is 2% per year compounded. These same businessmen are making a lot of money on the compounding interest of their investment and yet somehow seem ignorant of the fact that 2% per year does not equal 2%. It compounds. We are now talking, five, six, seven, eight years down the road, of 15%, 20% and 25% of our rent being money allocated to capital expenditures but not required to be spent there. I think that is a serious point we have missed in what is happening with this new legislation.

1100

We too have more facts and figures and more information we would be thrilled to discuss with anyone. We have had considerable consultation with many members. I recognize a number of people here we have passed this information on to in the past and we would really like to see this seriously considered, not just passed over.

The number two item that comes up when you talk to real tenants is "cost no longer borne." Again, it seems like such a simple concept, that if it costs \$100,000 to fix that boiler, when you get paid back \$100,000 you are paid back. The rent should not continue to be at a higher rate. What we are talking about now is rents that have all kinds of costs built in which are pocketed profit. You cannot call it anything else. Where can that money be going? It was necessary back then to repair the boiler. It is still in there now and the landlords are taking that money home. No one takes that into consideration.

We start talking about disinvestment. They are not going to disinvest because that money is compounding every year. That profit is being multiplied by the guideline, plus potentially 3% or more. The situation is that there is plenty of interest in the housing market here. I think that is not going to be a concern at all, but the costs no longer borne should be reversed. Let's undo the errors of the past, or at the very least let's not compound them and continue to do it. Let's make allowance so that if we are passing through costs of any kind, they be finite and they end at some point and not be profit for ever.

Third is a big item, enforcement. I have not heard it mentioned by anyone at any time during any of this process. Let me take this a little step further, because we have talked about municipal guidelines for heat and hot water and that sort of thing, property standards, but we have not taken that a step further. The ministry presently, to my understanding, and excuse me if I am not completely up

on all the facts, has an enforcement branch whose primary function is to address key money. I do not know if that is its primary function, but that is the way it works, to address key money, and that is often difficult to get something to happen as well.

What we have right now is a situation where many tenants in this city are undergoing harassment. I myself have two eviction proceedings against me: one for the heinous crime of having a dishwasher, the second for the heinous crime of posting notices in my building. As president of the tenants association, I guess I should not post notices to inform tenants of meetings. These two applications are both presently outstanding against me and I have to be in court next month to defend myself on both. I do not suspect there will be much chance of them being successful on either, but there is another day off work, more harassment, expense of a lawyer, etc. It is this kind of activity that is taking place against many tenants all over the province on a regular basis, and there is no one you can go to.

If your car were broken into and you were required to investigate, find all the information, locate the criminal, find the products of the crime, hire a lawyer, prosecute, file the charges, go through all those steps, we would be living in a zoo because cars would be robbed all the time. Somehow in tenant matters you are expected to investigate, find the proof, lay the charges, hire the lawyer and do all that sort of work. That, to me, seems obviously very unreasonable.

What we need to do is empower and enlarge the investigations branch so that it can go out and do some real enforcement. Certainly being harassed and threatened by a landlord is at least as frightening and at least as bad a crime as charging money for an apartment or for not providing the proper level of building code inspections and that sort of thing. I think that is an area that really should be attended to as well.

Those are the three main points I wanted to get across and I hope they will be looked at a little bit more seriously than they have in the past, because I think those are the areas that are seriously lacking in this new bill. I am short of time, so I will leave the remainder of the time for some questions, if someone wants to bounce them off me. Again, I apologize for not having my consultants to prompt me, but I will do my best.

The Vice-Chair: Mr Tilson, for a minute.

Mr Tilson: Sir, you are obviously a tenants' advocate and certainly the tenants need advocates like yourself to stand up for their rights. There are obviously two sides to a coin. This committee and many members of the committee get letters constantly and I just picked one at random. I do not even know if this individual is coming to the committee. This is an individual from Acton. He talks about how new accommodation simply is not going to be built. I will read you just one paragraph and ask that you give your comments as to what a tenant should do.

The Vice-Chair: Mr Tilson, if you read one paragraph—

Mr Tilson: It is three lines. "With the present rent control legislation in Bills 4 and 121, no businessman would be foolish enough to invest in the lower-priced

residential rental business. Its one-sidedness, complexity and poor financial return would scare any clear-thinking person away." What do we tell tenants when landlord after landlord is saying those sorts of things?

Mr King: My answer to that would be that I see there is a lot of profit in rental housing. I have seen my landlord's lovely condominiums—I cannot afford to buy one—which have been financed by rental accommodation. I see the beautiful houses up in Thornhill that have also been financed by rental accommodation. I also see that the new Bill 121 allows for a period without rent control when you build new apartments. In my mind, that would suggest it would be a good idea to create new accommodation, rather than just buy and flip and speculate on existing accommodation, which I suppose is what we all want to encourage.

Ms Harrington: Under our legislation we are very much interested in the issue of maintenance, which I believe is one of your concerns. I also want to tell you—maybe I should have tried to explain this to the previous delegation—that the intent of this legislation is to bring a balance to the relationship between tenants and landlords, which is exactly what you are talking about. You have not felt able or empowered to deal with your situation. The question I have for you is that under the previous legislation, the Residential Rent Regulation Act, if it had still been in effect at this time, what would your rent increase have been this year?

Mr King: My rent increase this year would have been 24% effective March 1.

Ms Harrington: And what was it this year?

Mr King: It was 5.4%.

Mr Sola: Sir, if I understood you correctly, I think you did not regard rent control to be a disincentive to maintain properties. I think the people before you said the government itself must have recognized that Bill 121 would be a disincentive for reinvestment in properties, because why else would it put in the legislation penalties for not keeping properties up to standard? I would like to get your comments on that, please.

Mr King: Two comments on that: First, I would like to correct you; I did not suggest rent control was or was not going to be a disincentive to investment. What I have suggested is that Bill 121 as it stands could be a disincentive. However, if you add to it my suggestion that we have a capital reserve fund that is going to fund the improvements, I do not see the disincentive there.

Second, I would suggest that we are fond of talking about ghettoization. I hear my friends from the United States suggesting that removing rent controls somehow is going to keep fair rents for low-income people. I listened carefully and I did not see where the logic came in that statement. We see ghettoization in a lot of other cities that do not have rent controls. I think it is a process of a lot of other social problems and not of rent control itself.

The Vice-Chair: Thank you, Mr King, we appreciate your presentation. The committee will now move on to the next presentation.

Mr Tilson: Mr Chair, before you proceed, two presenters ago, the Fair Rental group, we received a statement from Mr McConnell. I wonder if Mr Sailins's presentation was printed for us.

The Vice-Chair: The clerk tells me it was not.
1110

RUSTOM SATCHU, JIM MCKINLAY

The Vice-Chair: Good morning, Mr Satchu. You have been here monitoring the proceedings so you know the way this works. You have 15 minutes to make your presentation. Perhaps you would introduce yourself and your colleague and any organization you might represent for the purposes of Hansard.

Mr Satchu: Before I start I am just wondering whether this is in order, with Mr Mammoliti's interest in not being able to be here between 12 and 12:30 and with Ms Harrington's discussion about being here for the previous two experts who had come here before. In fact she was the only person gracious enough to come to that from the NDP side of the floor. Is it possible to give up my time to allow for these people, who obviously have so much to say on behalf of tenants, to have question time? I have worked long and hard on this, and with the minister present as well I am willing to give up my time for that purpose.

The Vice-Chair: Only if the committee instructs me that way. Do we have unanimous consent?

Mr Duignan: No.

The Vice-Chair: Mr Satchu, you may proceed.

Mr Satchu: My name is Rustom Satchu and I am speaking on my own behalf. I am accompanied by my associate, Jim McKinlay. I came to Canada from Kenya in 1976 and became a Canadian citizen in 1982. I have been active since 1980 in real estate, specializing in apartment buildings. I am also actively involved as a director in two industry groups, the Fair Rental Policy Organization and the AFFORD group, the Association for Furthering Ontario's Rental Development. This latter group warned investors last November in the Wall Street Journal, "Be-ware of Ontario."

This warning in my view applies doubly today. Ontario is in deep trouble because of the ruinous policies of this government towards business, not just in the rental housing field but in many other fields too. These include trucking, auto insurance and private day care, among others. This is only year one of the NDP government. What other sectors of business are to be sacrificed over the next four years? In other words, who is next, the banks, the steel industry? Please let us know. After the experience of this year, the business community has absolutely no confidence in this government, and let that be totally clear.

I believe that housing, health and education are basic rights which should be guaranteed to every citizen in genuine need, and provided where necessary by government. This is a government responsibility shared by all taxpayers on an equal basis. One of the greatest sins of rent control is it forces rental investors to carry this burden entirely themselves.

The first thing I want to talk about is a serious public scandal; that is, the great, gross falsehoods perpetrated by

the Premier and David Cooke, the former Minister of Housing. It is the astounding campaign of misrepresentations, claiming all kinds of widespread abuses under the prior regime of rent controls in order to mislead the public about the need for a radical tightening of controls through Bill 121. There are six main points here.

1. This is the claim of widespread incidence of high rent increases. That is false. Mr Rae and Mr Cooke keep referring to 50% and 100% increases, when in fact only one tenant in 14,000 rental households had a rent increase of 100% in a year. These are the Ministry of Housing's own figures as shown in appendix 1 attached hereto.

2. They constantly refer to generally unaffordable rent levels. It is false, false, false because the average rent in Toronto, the most expensive market in the province, is only \$634 a month. These are CMHC figures as shown in appendix 2. The bottom line is that Ontario housing is affordable.

3. Mr Rae and Mr Cooke keep referring to widespread speculative flipping, that is, multiple resales of apartment buildings. That is the entire basis and justification for eliminating the financial loss provision that allows landlords to increase rents where they do not cover expenses. Again, it is false. Toronto city council did a study in 1989 that proved conclusively that there was in fact very little flipping in Toronto over the previous nine years; in other words, more misinformation from Messrs Rae and Cooke.

4. Messrs Rae and Cooke keep talking about rental profits—I apologize to the new minister for keeping on talking about Mr Cooke here—being high and rental investors as well-off people. Again, it is wrong. It is a fabrication to justify this bill as a means of reducing rental earnings. The fact is that three professional reports by the most reputable experts prove conclusively that rental profits are chronically lower than almost all other businesses. Each of these reports was commissioned by the government itself. Why do Messrs Rae and Cooke not read them and stop making up falsehoods?

5. The next falsehood I would like to cite is a truly sickening one; that is, the chronic denials by Mr Cooke that the new rules would cause a drastic drop in apartment values, wiping out the savings of tens of thousands of mainly small rental investors. It has already happened. Apartment values have already dropped about 30%.

It is interesting to note that contrary to Mr Cooke's denials, this is in fact one of Premier Rae's prime objectives, as outlined in his secret agenda. In the Tenants' Bulletin published by the Federation of Metro Tenants' Associations, Premier Rae said, and I quote for the 15th time: "You make it less profitable for people to own it. I would bring in a very rigid, tough system of rent review. Simple. Eliminate the exceptions and loopholes. There will be a huge squawk from the speculative community"—that is the landlords, the people who have kept the affordable housing—"and you say to them, if you're unhappy, we'll buy you out." I wish that would happen.

6. Minister Cooke and other NDP stalwarts consistently point to the Vancouver experience since decontrol in 1983 as a demonstration that a free market rental housing economy does not work. They cite a few unrepresentative

years of tight vacancies. I have attached, as appendix 3, data that conclusively prove the contrary.

First, according to CMHC, Vancouver has long had slightly cheaper rents than Toronto since it decontrolled in 1983, decontrolled rents in a major city at less than controlled rents in Toronto. Second, it was when BC decontrolled in 1983 that Vancouver vacancies shot up threefold and remained reasonably high for most years thereafter. At the present time, the vacancy rate stands at 2.3%.

When taken together, these various misrepresentations are a serious scandal because they are the main basis for Bill 121. In other words, the bill is entirely based on fabrication.

The most fundamental policy issue of integrity for Mr Cooke and the Rae government should be the basic question of rent control itself and whether controls should be scrapped. Messrs Rae and Cooke are poorly serving tenants, who have the most to lose, by adamantly refusing even to consider this fundamental issue, and this goes for the two other sides here as well, previous governments.

This is despite the overwhelming evidence of grave harm wrought by rent controls, already well established in Ontario. These are the same results so well documented in the international experience. New York, for example, is currently facing a \$3-billion budget deficit made up largely of its unsuccessful efforts to undo the city's rent control slums.

Ontario is one of the few remaining provinces in Canada, and even in the western world, which still has rent controls in place. While the rest of the world is loosening controls, Ontario is busy putting in place the strictest and the most unworkable controls of the hemisphere. I would like to challenge that in the question period, I hope.

It is also a fact that none of the international leading economists, not a single Nobel laureate, has anything but unanimous condemnation of rent controls as a public policy because of the grave harm they bring to tenants and the shelter economy.

Obviously this government has a clear duty in the public interest of tenants, landlords, and indeed all taxpayers, to at least look at this basic issue of the bottom line, the cost-benefit of rent control, something that has never been done in the 15-year history of rent control in Ontario.

Just last month, a special US federal commission issued its report—I am going to make this available to the clerk—to President Bush on regulatory barriers to affordable housing. The cover page of the report is attached hereto as appendix 4 and a copy of the full report has been given to the clerk of the committee.

I suggest that every member of this government get a copy of this very important report. Why? Because this report proves conclusively that government, not private landlords and developers, is the principal cause of unaffordable housing. For example, restrictive zoning, complex building permit systems, excessive development charges and rent control. The commission believes this so strongly that it proposed federal funds be withheld from any state that does not have a barrier removal program including decontrol of rental housing.

Finally I want to talk about Sweden, the much-vaunted rent control success story constantly cited by Premier Rae, Cooke and other NDP stalwarts. But ladies and gentlemen

they have it all wrong. Last March, the AFFORD group invited one of Sweden's most eminent housing authorities to come to Toronto to explain the situation in Sweden.

We invited Minister Cooke and all members of the standing committee on general government to hear his expert views, but only one of the NDP members took advantage of this important opportunity. It was a heaven-sent opportunity to get the true facts about Sweden, rather than what the NDP has been spouting for years about the so-called Swedish model as a rent control success story.

1120

Sweden dropped Ontario-type rigid rent controls in 1975 as a demonstrated disaster, moving to a much looser system based mainly on a system of landlord-tenant-negotiated rents. If Rae and the NDP want to follow the Swedish model, they would have to scrap Ontario's current system of rent control, a move I would strongly recommend.

In conclusion, various governments since 1975 have brought in stricter and stricter rent controls. Bill 121, the NDP's new rent control proposal, will likely break the backs of the private landlords and drive many into bankruptcy.

Private rental housing works. It is affordable and it pays for itself, costing a mere 18% of tenant income. How the western world would love to be in this scenario.

Public housing does not work and is horrendously expensive. The government wants to build 40,000 non-profit units at a capital cost of at least \$4 billion added straight on to the debt of Ontario.

Reducing values and incentives for private landlords, who have provided 85% of Ontario's rental housing stock, will mean no further private investment and more public housing. Can we really afford the horrendous cost of government mismanagement of our rental housing economy?

There are real solutions, of course, and once again they are presented in appendix 5.

Ms Harrington: At the beginning you were generous enough to offer your time to someone else, and I wanted to tell you that I value your presentation, and the rest of the people on the agenda too. That is why we did not go for your suggestion. But maybe now I should have changed my mind.

I wanted to tell you that the reason we are getting into this is stability. We want tenants to know what their rents are going to be, and there is something else involved in this too. It is a power imbalance between tenants and landlords. We believe that if we can empower people to feel that housing is their human right and that landlords and tenants can deal with each other on a more equal basis, just like men and women can deal with each other on a more equal basis, then this will strengthen our whole society.

We believe that landlords should be able to make a fair profit in this province, and many of them over the past years, as you have just said in this presentation, have lived within the regulation and have had no problem; they are not gouging. Those are the people we want, and they will remain in this system. We want more of those people in Ontario and we want the system to work with your help.

Mr Satchu: The only thing is, I think what you are misunderstanding is the effect, and this is why it is so sad

that you will not listen to experts. You yourselves have no experience in this field. I do not know how many of you have actually owned any rental housing or how many of you have actually produced a job, but I think both those things are necessary to understand the problems that exist here. You perfectly well know that there are people who are losing money every year without fail. There are people, landlords, who are writing a cheque every month to support tenants' rents.

Ms Harrington: And there are very many others who are not.

Mr Satchu: Agreed, but why—

The Vice-Chair: Thank you. Mr Tilson.

Mr Tilson: I am glad you mentioned British Columbia, because the socialists of course always say that deregulation will not work and look at British Columbia. Would you elaborate further on your comments?

Mr Satchu: I am going to ask Jim to do it.

Mr McKinlay: Back in January or February when we were going through this process the AFFORD group made a presentation. In response to that presentation Mr Drainville quoted some statistics that I thought were somewhat fascinating. Typically, he chose to cite statistics that were unrepresentative of approximately a 10-year history of decontrol in Vancouver, and he quite conveniently chose statistics that reflected a tight market.

There is no question that Vancouver did go through a period of time where it had a tight market. Everything has an economic cycle where things are a loose market and they come right back around to a tight market.

He cited examples of 17% to 60%—

The Vice-Chair: Thank you. Ms Poole.

Ms Poole: Thank you for your presentation. Your presentation is based on the premise that rent controls must be removed to revive the housing market and to make sure that it expands and grows and flourishes over the coming years, but the government has made it very clear it does not intend to scrap Bill 121. Given that fact, what one factor in Bill 121 do you think has to be changed most?

Mr Satchu: I am sorry. The reason for talking about the removal of rent controls—I do not expect that to be done tomorrow, nor may it be healthy just immediately. It may need some years. But the interest is because I think it is in the interest of tenants' rights, and what Bill 121 is saying is totally contrary to tenants. I think rent controls have led to inadequate maintenance and have led to neglect because there has not been the money to serve it. Now we are going to say: "We've shoved you with rent controls for 15 years. On top of it we're going to make sure the maintenance and everything else is to be done as if there was a free market." This is the lunacy of this sort of thinking, which has gone ahead in Santa Monica, in Berkeley. We have had the results of exactly those sort of areas, and we are going to do it again. It is almost as if we do not want to learn.

The Vice-Chair: Thank you, Mr Satchu. Thank you for your presentation.

COUNCIL OF ONTARIO CONSTRUCTION
ASSOCIATIONS

The Vice-Chair: The next presentation will be made by the Council of Ontario Construction Associations. Good morning, gentlemen. If you would introduce yourselves for the purpose of Hansard and identify the organization then you have 15 minutes to make your presentation. The committee always appreciates a few minutes to ask some questions.

Mr Surplis: My name is David Surplis. I am president of the Council of Ontario Construction Associations. With me is Gerald R. Genge, an engineer with Morrison Hershfield, who will be actually making most of the presentation this morning. We are going to have a bit of a departure for you here. We are not really going to talk about social policy. We want to talk about something that we feel has been somewhat ignored or missed in the discussions to this point and that is the actual state of buildings, rental housing, in Ontario and the costs associated with maintaining, restoring and preserving those buildings.

The council—COCA, as we are called—is an organization representing 49 construction associations, everything from heavy construction to repair and restoration and everything in between. In good days we represented about 49,000 construction companies. Now that is down about 20% in the last couple of years because of the inflationary cycle and so on. We also know, though, that unemployment in the workforce in construction is running about the same, 18% to 20%, which is horrendously high and very hard on the workforce.

One of the areas where there has been a marked and unexpected decrease in activity and work is residential apartment restoration, rehabilitation and repair. Despite what Mr Cooke thought, we are definite in our views that this work stopped with the introduction of Bill 4. He says it is Mulroney and high inflation and so on. We do not deny that all those things had to do with it, but it is an interesting coincidence that almost all of the concrete restoration stopped as of the introduction of Bill 4. That concerns us.

We would like to point out that rehabilitation and repair are normally very steady, predictable forms of employment. They are not so any more. We are concerned that there is apprehension out there in the investment community, the ownership community, where they are simply not hiring our workers, our companies, to do the work. That is a fact. We are not speculating any more as to the reason. We are just pointing out that there is very high unemployment. There is very little work being done in restoration and rehabilitation of apartments and it desperately needs to be done.

In brief, we are here to point out today that a great deal of money is required to preserve even the basic health and safety requirements of residents in older buildings. The deterioration of buildings is not always evident to anyone other than a trained engineer, but it is inexorable. It does not stop with the introduction of legislation. Repair and rehabilitation work simply has to be undertaken to restore and then preserve the current stock of buildings. That work is extensive and expensive, and allowance must be made to pay for it.

1130

It appears to us, for instance, that essential work on older buildings in the Toronto area will generate costs far in excess of the allowance proposed in Bill 121. The work desperately needs to be done—we are just talking about basic safety work—but how can it be done if there is not an adequate cash flow? We are concerned that rent regulation take into account the basic physical facts about the nature, extent and cost of maintaining the stock of rental accommodation in Ontario. I do not think that has been addressed adequately, at least to this point.

To that end, we are pleased to have with us today Gerald R. Genge, who is vice-president, technical services for the firm of Morrison Hershfield, consulting engineers. Mr Genge has been engaged in an extensive study on the conservation of apartment buildings for the city of Toronto. You heard it referred to before. We have appended it for you. Mr Genge will go through the salient points. Unfortunately, as we all know, time is short, but he will do his best, and we will certainly entertain questions. I would add that we are available, as everyone else has said, for further consultation. We will present you with any written material, whatever you would like, afterwards. With that I will turn you over to Gerry Genge.

Mr Genge: Thank you very much. I am not personally representing COCA. I am merely here as somebody who has been involved in a technical study to have a look at the condition of the buildings, in particular the condition of the buildings in the city of Toronto. The city of Toronto occupies probably about two thirds of the apartment housing stock that we have in Ontario, so it is a pretty good sampling.

The concern over the condition of private rental apartments in Toronto initiated this study to determine the viability of modifying or adding an existing housing standards bylaw to cause the building owners to initiate rehabilitation and repair in a planned, organized and proactive manner. This appeared to be necessary as the current processes in place are inadequate for that purpose. Just by driving around town having a look at the condition of buildings, you can see evidence to that effect. The high-rise apartment stock continues to advance further into disrepair, elements of the principal building systems continue to deteriorate and the quality of life in the subject buildings continues to degenerate.

Our study team is addressing the technical and costing issues, the policy development and planning issues and legal issues in order to assess the feasibility of an apartment conservation program. Morrison Hershfield Ltd, my firm, is addressing the technical needs and timing for rehabilitation and conservation, the associated costs and thus the impact on the funds required on an annual basis.

The cost data for building repair follow directly from the type of repair and the extent of the repair required. Thus the building characterization became a key initial stage in developing this feasibility study. Building characterization for the population of private apartments in Toronto ended up being, through a process of analysis that we performed, fairly well defined by the decade in which the building was constructed. Buildings in the 1950s, buildings in the 1960s, buildings in the 1970s and building,

in the 1980s can be characterized as a typical building. For instance, a building in the 1950s is approximately seven storeys, it has about 67 units in it, has a one-level, probably above-grade parking garage, a certain type of windows, a certain type of mechanical system. As a result of that sort of knowledge we were able to project costs for buildings of that decade. That was similarly done for all of the decades in the city of Toronto.

As we began developing the cost data, it became apparent that things were getting expensive and that a staged program of implementation of any sort of conservation plan would be required to make it affordable. It seemed to best address the needs to do the work related to life safety as a first priority. Our program, as we propose it, is a three-stage one. The details of the program are not critical here, but the costs are the salient points. The initial stage would address life safety, the second stage would address the building condition and the third stage would maintain the building in good condition.

In the handout in exhibit 3, which is between pages 10 and 11, there is a description of the construction history for the apartments in the city of Toronto. The construction history is quite interesting. Most of the buildings that we have in the city of Toronto, in fact 70% of the buildings we have in the city of Toronto, predate 1970. That makes these buildings between 20 and 35 or more years old, and these are buildings which are in dire need of work.

Between pages 14 and 15 in exhibit 4 there is a summary of the cost to implement the program as described in the attachment. It is important to note that the cost for getting buildings into a sufficiently suitable condition are significant. Over the first nine years, as the existing buildings are staged into the program, the total one-time costs to owners are calculated to be \$293 million. These are 1991 dollars. That is considerably more than the ongoing costs for what we have called stage 3 or ongoing conservation, which is about \$39 million per year. So we are looking at about a seven-to-one factor of costs which are required essentially now, at least within the next decade, to bring buildings up to a state of repair where they are able to be conserved rather than continually approached in a reactive manner, in a replacement as you have to do it type of mode, as in closing down a parking garage because it cannot be used or shutting off the balconies or special-assessing somehow the tenants. That number, \$293 million, would equate roughly to about \$630,000 per building, which would be the kind of number we would be looking at per building to do the restoration work.

The kind of restoration work we are looking at here I think needs to be addressed quickly. What we are including in it is the structure itself, the roofs, the cladding, the windows, the balconies, elevators, the mechanical and electrical systems, the fire and life safety systems. We are not including in our evaluations here, in our costing, things such as landscaping or finishes or appliances or flooring or routine cleaning. So our study is looking at the condition of the elements which are necessary to conserve the fabric of the building, and these costs we are finding are very high.

Exhibit 5 in the handout gives an idea of the type of rent increases that would be applicable should a conservation

plan such as the one we propose come into effect. From the 1950s and 1960s, to enter stage 1, which is just to address the life safety issues of buildings of those vintages, we are looking at an increment in the existing rents of 10% to 13%. That includes two components of the cost. That includes the ongoing maintenance cost and it includes the cost to bring them up to a state of repair where you can do conservation. Those costs, I should make clear, for doing the initial startup work have already been amortized over a 15-year period. So it is not the \$293 million all in one year. They have been amortized over a 10-year period.

If I can make one final comment here, all I would like to see come of this bill is something that would enable the buildings in their condition to be repaired. As I drove down from north Toronto today, I was looking at the buildings on the Don Valley Parkway, and just about every one that I drove by, I could see work that was required to improve the fabric of the building. These are bits of work that are required not because the building is cosmetically unacceptable, aesthetically not pleasing, but to prevent things like water penetration, and deterioration of exterior cladding and to repair roofs.

I will open it up now to questions if there are some.

Ms Poole: Thank you for your presentation today. I find it extremely helpful, particularly the study you have enclosed, with some fairly pertinent details.

I am looking at exhibit 5, which is the projected conservation cost and impact, based on the 15-year amortization, 1950s buildings. You are saying stage 3, so is that meant to be a three-year period?

Mr Genge: In the handout—back to exhibit 2, which is just prior to page 10—there is a detailed description of how each of the decades of buildings would be introduced into the program. It takes a bit of study to come to grips with the chart, but for the buildings which are introduced from the 1950s—we are looking at the white block at the bottom and the shaded block just above that—you can see that the buildings which would enter into stage 3 for the 1950s would be entering at year 7 and year 9 of the program. Buildings which enter into that stage 3 have already undergone the initial startup costs.

Mr Tilson: You have painted a pretty grim picture as far as the safety of the housing stock of this province is concerned. By implication, you are saying Bill 121 will not address that crisis. What will happen as a result of Bill 121?

Mr Genge: I cannot comment on the bill itself. The reason for my presence here is just to bring to the committee's attention the condition of the existing housing stock.

Ms Harrington: I just wanted to comment briefly that I would like to ask our staff to go through all these details that you have given us, which is certainly valuable information, and if a program for rehabilitation of buildings has to be dealt with, then certainly we have to look at how to accommodate this.

I had asked staff for an example of how work would be done on a building and I have received a very interesting example of how to finance a roof within the guideline and I would like to submit this to the committee as a whole. It

does not directly apply, but it is one example of how substantial work can be done on a small rent within the guideline.

The Vice-Chair: Thank you for your presentation. It has been most informative.

The clerk will distribute Ms Harrington's information as soon as she can get copies. Thank you, Ms Harrington.

1140

CO-OPERATIVE HOUSING ASSOCIATION OF ONTARIO

The Vice-Chair: The next presenter will be the Co-operative Housing Association of Ontario, if you would come forward, please. Good morning. We appreciate your presence. If you would introduce yourself, identify your organization for the purpose of our Hansard. You have 15 minutes. The committee always appreciates some time to have a conversation with you.

Mr Morris: My name is Bill Morris. I am the manager of government affairs with the Co-operative Housing Association of Ontario. Thank you for taking the time to hear us today.

We at the co-operative housing association find ourselves I suppose in a somewhat unique position in that although we are not directly involved in the rental housing market, we are certainly involved peripherally in that we are a large and growing part of the overall housing market. My comments are going to be rather general in terms of the direction of the legislation, rather than pertaining specifically to specific clauses of the legislation.

If I can, I would put forward the proposition that any rent regulation system should have as its primary objective consumer protection, and the consumers I speak of here of course are the tenants who live in the housing. What we have had in this province is a history of rent regulation since the mid 1970s, first introduced by the Davis government. That history has been marked by a system that, although it has changed over the years, has really remained much the same. It is based on a cost pass-through system that sets out a basic guideline, and then for extraordinary costs, capital expenditures and financing changes landlords are free to apply for increases above the guideline. That system has been in place, and my estimation of the current system that is being proposed is that it retains much of that basis. It retains a cost pass-through system and attempts to eliminate the excesses of the previous legislation by capping the amount that can be passed through in any one year.

I think it is important, though, to set a bit of context when we talk about regulation, because I think that for the most part, the relationship we have attempted to establish has been one which has attempted to balance interests, balance the interests of tenants who require protection because they are facing an affordability crunch. Tenants find themselves in a unique position, given that someone else owns their homes, so their security of tenure is directly tied to one of two things, either their ability to compete within the marketplace or the benevolence of their landlord, that is, in the absence of regulation.

However, we live in a society and a marketplace that I would say is typified by a couple of other factors. I think those changes are important to recognize when we

contemplate what kind of regulation we are going to have within the rental market.

First of all, I would put forward another proposition, and that is that the rental housing market is largely a residual rental housing market that we have today, the private rental housing market. I guess there is some debate as to why it is a residual system. We have heard some people today put forward the position that it is a residual system largely because of the regulation that exists, and if only government would get off our backs and deregulate, things would be fine and the marketplace would take care of itself. I am afraid that view in fact misrepresents the economic realities of Ontario and the economic realities of building housing.

We in the non-profit sector build housing every day. The costs are no mystery. We use the same private sector building firms to produce our housing as would private rental housing producers. We have to meet the same building code requirements. We have to go through the same frustratingly slow zoning process in order to produce our housing. The real culprit here, I am afraid, is not regulation, it is cost. What we have witnessed during the 1980s has been a very rapid escalation in the cost of doing business, that is, the cost of producing housing.

The sad reality is that the cost of producing housing is not reflected within the amount that can be afforded by tenants in Ontario today. That is the crux of the problem. The crux of the problem is an affordability gap. It has little to do with regulation. Regulation affects it, but it is not the core problem. As I say, I think that is an important context to bear in mind.

I will also mention, just in terms of context so you will know where we are coming from, co-op housing, non-profit co-operatives, are not regulated by this legislation. That is because residents in non-profit co-operatives set their own rents. They determine democratically each year the level of rent increase for themselves and therefore are exempt from the legislation.

I will point out, however, that we are not unaffected by rent legislation. Our bridge subsidy withdrawal formulas use the old building operating cost index and residential complex cost index formulas that were found in the predecessor legislation as the basis for the bridge subsidy withdrawal formula. Incidentally, they also use that formula as the basis for determining the rate at which our subsidies are repaid to the government.

The second point where we come in contact with rent regulation is that we, as I say, do work within that broader marketplace and are affected by changes within that marketplace. When we see a tight rental market, we feel it very quickly in the growth of our waiting lists. The kind of pressure that is put on our housing stock as a result of the pressure on the rental housing stock is immediate.

I think the challenge that is really before us is responding to the changes within the marketplace and building a regulatory environment and indeed a housing policy framework in which we can respond to those changes. I believe the legislation that is proposed essentially tinkers with the previous system. As I say, it gets rid of the major problems that tenants were facing in terms of high rents.

increases by limiting them. However, I think it misses the boat on a couple of key issues.

First of all, as has been pointed out by others, I do not feel that the enriched guideline or the level of increase that is allowable under this legislation is going to protect the long-term physical viability of our rental housing stock. I think there are three priority groups, communities of interest, that have to be looked out for when we design rental legislation: First of all I put tenants; second I put the public; and third I put the owners of the properties. I do so because I feel tenants are the most vulnerable, and second, I feel the public has a long-term interest in that we have invested heavily through both the tax system and direct subsidy programs within our private rental stock.

1150

The other area of public interest within that is that we have direct expenditures we are now experiencing. In terms of supplying new housing, that has a direct relationship with whether our housing stock remains viable. I think the issue of retaining the long-term viability is key and that this legislation misses the mark in doing so.

We were disappointed to see that the legislation was not more ambitious in terms of breaking new ground. We would have liked to see the introduction of some type of capital replacement reserve system as is used in condominiums and in the non-profit sector. I think inevitably it will have to be introduced because essentially all we are doing is buying time with this legislation. It does not change the basic relationships that exist. It does not do a lot to address the long-term viability. Again, relying on a municipal inspection process, we have witnessed that in the past as not being a very effective means of ensuring long-term viability.

In terms of looking at a longer-term vision, again viewing the current rental housing market, I think the private rental housing market as residual is key in that it allows us then to work towards trying to see what kind of transitional period we are in and what kind of housing market we are heading to. I suggest and have suggested in the past that essentially we are looking at a transitional market in which the private rental housing stock will shrink and the non-profit housing sector becomes essentially the heir apparent to the private rental housing industry. That is the case in terms of production today, and I suspect that trend will continue in terms of the holding of property.

If we are to work in that direction, I think it is important to recognize the needs of tenants to be protected in terms of affordability, to protect the long-term viability of that housing stock and provide an adequate avenue so that housing stock essentially can be moved from private hands into the hands of the people living in it, the tenants who live in that property.

A couple of years ago, Mike Breugh, who was then the NDP Housing critic, introduced a bill to provide for a right of first refusal for tenants when property was being proposed for sale. I think such legislation would be a good idea and a good addition to a larger housing policy framework. I will leave my comments at that and open it up for questions.

Mr B. Murdoch: From your presentation I seem to get that you are against this bill, that you think it should be

more restrictive and that you feel maybe all housing in Ontario should be looked after by the government. Is that what I am getting from you?

Mr Morris: No, I think you misunderstand me. You have to understand that the co-op housing movement is both a criticism of the private sector and a criticism of government in terms of the way it is run. It is public housing stock. We run our own housing in the co-op housing movement.

Mr Tilson: You are also subsidized.

Mr Morris: So is the private sector, Mr Tilson, very heavily.

Mr B. Murdoch: It is?

Mr Morris: It is indeed.

Mr B. Murdoch: Do you mean that if I build a home, I will be subsidized?

Mr Morris: You will certainly be subsidized when you go to get your capital return on that, will you not? Will you pay income tax on that capital gain? Not a bit.

Mr B. Murdoch: Probably.

Mr Morris: No, you will not.

Mr B. Murdoch: Oh good, I will get you to help me—

Mr Tilson: There is no capital gain with respect to—

Mr Morris: I do not want to get argumentative.

Mr B. Murdoch: I just wonder what you want to do here.

Mr Morris: I just want to be clear we are not talking about a government-controlled system when we talk about a non-profit sector. We are talking about an independent third sector that is independent from government.

Second, in terms of the restrictive nature of legislation, no, I am not suggesting legislation that is more restrictive. In fact, I am suggesting legislation that is as restrictive as it is currently but that proposes a different framework in terms of the way we treat capital expenditures, and one that would ensure those capital expenditures get made.

Quite frankly, even our past system, under which I witnessed very significant rent increases in the private sector when I worked for the Federation of Metro Tenants' Association, did not ensure the long-term viability of the housing stock. It was up to the individual landlord to ensure that happened. In some cases it did and in some cases it did not.

Mr B. Murdoch: So it would be fair to say we should scrap—

The Vice-Chair: Thank you, Mr Murdoch. Mr Duignan, our resident expert on co-ops.

Mr Duignan: Thank you, Mr Chairman, I would not quite say that. It was nice to see you again, Bill, and nice to meet some old colleagues.

However, some of my more right-wing Tory colleagues across the way indicated that if you decontrolled completely and turned it over to the private sector, you would have all the affordable housing you could want, and at the same time eliminate the non-profit and co-op sector—because basically the money that has been paid out to build these units is too costly to taxpayers; it is not efficient—and at the same time, to pick up on that, introduce a subsidy

program of which one study alone this year puts a minimum cost of \$1.2 billion in that particular problem, an extra expense to the taxpayer. Do you agree with that statement?

Mr Morris: The interesting thing is that it points up the contradiction. A shelter allowance program, of course, simply recognizes what I am suggesting is the case within the rental housing market, that the consumers cannot afford the product. If that is the case, why are we subsidizing the private sector? Why would we propose to subsidize the private sector? I do not believe that is a good answer.

First of all, the amount spent on non-profit housing compared to any shelter allowance program that would have any degree of universality pales in comparison. Second, to assume we would have deregulation within a shelter allowance program is stretching it a bit. Let's face it, even the doctors are regulated in terms of the fees they charge. No government is going to look at a system where it is footing the bill and not having any control over that. You would still have to have a regulatory system.

Where we have regulation we are going to have regulation. I suspect that if we deregulate, essentially all we are doing is abdicating our responsibility in terms of housing, plain and simple.

Ms Poole: Welcome to the committee, Bill. I want to explore your comments about non-profit housing co-ops and the fact that they are exempted from this legislation as they have been from previous legislation and the fact that you are supporting that concept.

I have two questions about that. First of all, the reason you have given for this is that the members of the co-operative determine in a very democratic way what the rent increases are going to be, what the expenses are, that type of thing. Therefore, since they have had a hand in it, they should not be subject to the same legislation.

Mr Morris: They are the authors of their own misfortune.

Ms Poole: They are the authors of their own fortune or misfortune.

If you are looking at the private sector, let's say you had a building in London, Ontario the last time and they actually sent a petition to our committee and they had 56 units, the residents of the building unanimously wanted the landlord to do this work, the landlord did it and then he got caught under Bill 4 and they were objecting. If you have situations where the landlord and the tenants are in concurrence and there is no harassment and there are no allegations of any impropriety, do you see that those agreements should be allowed to exist under this legislation?

Mr Morris: I propose a system that would not have a pass-through, so no, I disagree with the substance of it. I would not head in that direction.

Second, in my years at the federation I witnessed a number of occasions where landlords claimed they had the concurrence of their tenants, and I can remember some in your riding. I rarely found it to be the case. I rarely found that the bargaining was a bargaining of equals. It was a bargaining of strength where one party had an awful lot of control and the other did not. I am afraid the negotiation of any contract is only good where the bargaining parties are

on an equal footing. I do not believe that is the case in a landlord-and-tenant relationship. I do not believe it is the case, simply because you are dealing with a tight rental market and with people who have a housing need, that—

Ms Poole: One sentence, a yes or no answer?

The Vice-Chair: No. Thank you, Mr Morris. We appreciated your presentation.

1200

W J HOLDINGS LTD

The Vice-Chair: Mr Sam Grossman of W J Holdings Ltd. Mr Grossman, welcome to the committee. You have been here and seen our proceedings. You have 15 minutes to make your presentation. If you can reserve a few of those minutes for questions and answers, that is appreciated. Would you identify yourself and the company you represent for the purposes of Hansard and then begin.

Mr Grossman: Good morning, barely, and thank you for allowing me the opportunity to speak. My name is Sam Grossman. I am the executive vice-president of W J Holdings Ltd. First of all, I would like to tell you a short synopsis of our company.

We are long-term landlords. We have been in the business of building, owning and managing our own apartment buildings throughout Metropolitan Toronto for the past 30 years now. We are not flippers. We are not speculators. We have not sold any buildings yet. Until recently, we have taken pride in all aspects of our buildings: the pride of ownership and the upkeep of our buildings. We feel we have very good tenant relationships, and we have excellent relations with our numerous employees and tradespeople.

One of the major ways in which we have successfully maintained our buildings over a 30-year period is by the utilization of our own maintenance crew. We feel we have a very good group of plumbers, electricians, mechanics, carpenters and labourers. They have done an effective job for us, but no one is perfect. Although this is not normally a cause for concern, it has become one for us now. The onerous provisions of Bill 121 dealing with areas of neglect, the blocking of rent increases, outstanding work orders and disallowances of rent increases have now made any lack of perfection a major problem for us.

Under this legislation, a single disturbed or unreasonable tenant or rent control employee, even if acting in an entirely frivolous manner may, under the provisions of this bill, wreak financial havoc in a building with hundreds of satisfied tenants. It appears to us as though the most horrendous parts of this legislation were designed to deal specifically with those few well-publicized landlords who regularly engage in abusive business practices.

However, we do not feel it is fair to tar a whole industry with the same brush, especially since our industry comprises largely long-term owners and managers like ourselves. Since we think this bill uses a bomb to kill a fly, it has severe repercussions to all landlords, including ourselves. We predict that, rather than focusing primarily on effective maintenance, management's major focus will now be directed to protecting itself against unreasonable tenant claims under Bill 121.

For us, this may result in jobs lost for our employees. The reason for this is not because we do not like them any more, but it may be safer for us, under this type of legislation, to simply contract for all building maintenance with outside contractors, who would then be required to indemnify us against any losses relating to their neglect. I am talking specifically about losses in the form of blocked rent increases under this bill. We are certain this would result in higher costs, less efficiency and a poorer quality of maintenance.

Our recommendations on this bill, to prevent this from happening, would be: first, a reasonable procedure for dismissing frivolous claims prior to issuing any orders; second, a proper appeal procedure against any unreasonable orders, including court appeals, and not blocking or staying rent increases pending such proceedings; further, any work orders should be time-sensitive to the nature of the work required and provide for reasonable extensions due to unforeseen circumstances; finally, if we want this legislation to work, we need a clear and objective definition of the term "neglect" as it applies to maintenance.

The second section of my submissions deals with the specific Bill 4 freeze on capital, and the so-called fair transition rules that are proposed under Bill 121. At the time that Bill 4, this shocking, possibly illegal and certainly totally one-sided and unfair piece of legislation was passed we were in the midst of a capital repair program on four buildings. Two buildings are located in Scarborough, one in Toronto and the other in North York.

The program I am talking about was planned and commenced in stages dating back as early as 1988. Spending on the four buildings in this phase of the program totalled approximately \$3.7 million. Most of this amount was concentrated in the following necessary areas: replacement of deteriorated balcony railings; replacement of leaky, drafty single-glazed windows with new double-glazed windows; restoration and waterproofing of delaminated concrete in underground parking garages; updating of building fire protection and life safety alarm system; and installation of aluminum siding to prevent water damage to the building.

This work probably employed a total of approximately 100 workers for roughly six months. Under the rent review rules at the time this work was planned and commenced, we would have received a return of \$527,000 a year on our \$3.7-million investment and this would have commenced January 1991. Bill 4 resulted in a zero return for 1991 and increased our costs by approximately \$450,000 in interest charges on the debt we had incurred to do the work.

Bill 121, which we were told would be fair to business people like ourselves who complained about being frozen by Bill 4, would yield the following result on our \$3.7-million outlay. Commencing probably around mid-1992, we would receive an annual return of \$197,000 on our debt, which was originally \$3.7 million in 1990 and would have grown to approximately \$4.38 million with the additional interest costs by that time. Thus, our allowance under the so-called fair Bill 121 would not cover even 50% of the interest charges on this debt, let alone the principal figure. However, in mid-1993 we would begin receiving an additional annual return of approximately \$88,000, being the

second year of the phase-in under Bill 121, so that our total return in 1993 would be \$285,000 on an investment which by that time would be in excess of \$4.5 million and growing.

These types of provision in this legislation would be certain insolvency for these buildings, because the annual return would nowhere near cover even the financing costs on the investment. Obviously, under this scenario we will never do capitals, nor employ workmen as we did previously. Even if we wished to do so, the economics of the situation would make it impossible to obtain the necessary funds.

Therefore, we urge you to consider the following changes to Bill 121. This is all in the area of so-called transitional capital.

1. Transitional capital should be considered under the laws of the old Bill 51, which was the legislation in effect when this work was planned and performed.

2. This means that rather than the proposed 2% penalty deduction on capital allowances, there would only be a one-time 1% deduction.

3. To help ease the impact of any large pass-through on transitional capitals, we suggest the cap be increased from the proposed 3% and two-year maximum to 5% annually until fully implemented.

I would like to now deal with the treatment of new capital under this legislation.

As explained earlier, the proposed rules fail to provide for a sufficient return on investment to enable the necessary funds to be raised in order to perform any capital work required.

This situation becomes even more critical when we keep in mind the age of much of our housing stock. As you have heard earlier today, the city of Toronto has issued statements that billions of dollars will be required to preserve the city's aging housing stock. However, combined with this problem, we feel, is a unique economic opportunity. Right now, there are significant numbers of unemployed tradespeople who are prepared to work at very competitive prices. You have also heard about this earlier today. However, this situation will not continue for ever.

It is clear that our industry requires incentives to perform the necessary capital work now. It is equally clear that the capital disincentives proposed in Bill 121 will result in this opportunity being lost for ever. Therefore, we would like to propose the following changes as incentives to perform new capital now.

First, eliminate the 2% penalty deduction from capital allowances carried forward, with a one-time-only 1% deduction. The 2% is illogical. As the previous minister has stated, it is for sundry capitals. This has the effect on carry-forward awards of eliminating the 2% available for sundry capitals in the carry-forward year.

Second, the 3% cap allowance in each of two years should be changed to provide for as many years as are required to enable the justified allowance to be fully phased in.

Third, the 3% cap allowance referred to for necessary capitals should be exclusive from any extraordinary operating cost increases or any capital work classified as a retrofit item. If there are justified allowances granted for

these items, they should be passed through over and above the allowance for necessary capitals.

Extraordinary operating cost increases have absolutely nothing to do with capital work. As businessmen, we are outraged and insulted by a totally unfair attempt to lump them together in this bill. Similarly, a retrofit item is one in which we are required to perform capital type of work solely because a legislative body requires a change to be made in the building. Such changes are totally beyond our control and, since they are unanticipated, cannot be either planned or budgeted for.

Implementation of these three items would help stimulate the necessary work to get done quickly at reasonable prices, while helping to justify the required investment.

Finally, what would be the aftermath of Bill 121? As reasonable business people who have been in this business for 30 years now, we ask ourselves what could be accomplished by a piece of legislation which, in its present form, is so unfair, unreasonable, unworkable and unmanageable. As we have demonstrated in our example earlier with the capital done on our buildings, it would ultimately drive all owners out of the business, the weakest ones first, the stronger ones later. Eventually none of us would be able to finance our businesses. The province would likely wind up running all buildings. What would this accomplish?

Let's look at the record. We have provided a vital product for the past 30 years in a reasonable and efficient manner. This legislation assumes our tenants need protection—of a most unfair and severe nature—against our unreasonably high costs of providing this service. In section 2 of my presentation, I discussed the \$3.7-million capital spent in four of our buildings and the fact that this bill would cause us to lose about \$200,000 per year on that investment. I have shown in this our current rent ranges in those four buildings, which average anywhere from \$610 to \$685 per month for a two-bedroom apartment. This is what you would be legislating against.

Now let's compare the government-run record. I have shown some comparable ranges for government-run buildings as obtained from Cityhome. What you are legislating for if you want to take these buildings is an average of \$200 to \$300 per month in higher rents.

In conclusion, I urge you to please try to think openly about whether this is what you really want and about who will really be helped from this.

1210

Mr Winninger: You have factored out the annual return of \$197,000 on your debt which would be provided for under our proposed legislation. I do not know whether that includes the 2% for sundry capitals that you would be given each year under the guideline, but even if it does not, I suggest to you that the rent increase which is allowed you, the 3% cap in the first year and again in the second year of carryover, is going to be included in the annual base rent and will be indexed accordingly, even under the normal guideline, from year to year.

Surely you are recovering a very large part of your costs if we amortize these repairs and replacements over, say, 15 or 20 years. You are going to recover the lion's

share of your costs, because it is already factored into the base rent after the second year of carryover and indexed annually.

Mr Grossman: That is incorrect. I am recovering nothing. As I pointed out, the initial financing costs of this investment are at least going to be \$200,000 over and above whatever rent increases I get back. Even with the indexing you are talking about, the indexing on a \$200,000 allowance would be somewhere roughly in the neighbourhood of maybe \$5,000 or \$6,000 per year. How am I ever going to recoup the principal, never mind the interest costs?

Mr Winninger: I am suggesting to you that you can recoup the principal.

Mr Sola: On page 1 of your brief recommendation (a) states, "A reasonable procedure for dismissing frivolous claims prior to issuing any orders." Do you have any idea how this would be accomplished? I think that is a very good suggestion.

Mr Grossman: First of all, if one single tenant in a building makes a complaint which is not supported by any other tenants or only a few other tenants, I think there should be—there are certain items which can obviously border on frivolous, like a dirty pool or something which a few people complain about, or a lightbulb missing somewhere. I think in these cases there has to be some procedure whereby there has to be a certain minimum number of people who are supporting that claim before an order is issued which can block a rent increase. We are not saying that the complaint cannot be issued, but we are talking about a serious matter here. In a 200-suite building, we are talking about blocking maybe \$10,000 worth of rent increases because a tenant complains that a lightbulb is missing or because the lobby floor is dirty.

Mr Tilson: Thanks for your proposed amendments or your thoughts on amendments, specifically page 4. The only time you mention the word "neglect" is that you do not know what it means. I agree with you; I do not know what it means either. But I wonder if you have any thoughts on this whole issue of neglect. If you make an application for a capital expenditure, some tenant can say there is neglect and your rent in fact could be reduced. Do you have any thoughts on that subject?

Mr Grossman: Yes. By "neglect" we are really talking about a neglect in adhering to whatever the standards of maintenance are. That brings us back to the same problem with defining standards of maintenance. Under the previous government we had a committee of landlords and tenants who were working jointly together to develop and define proper standards of maintenance as they should pertain to apartment buildings. I feel this committee should be brought back into force. They should agree together jointly between landlords and tenants as to what represents fair standards of maintenance within apartment buildings.

The Vice-Chair: Thank you, Mr Grossman, for your presentation today.

Before we proceed with the final presentation, the clerk will give us some information about travelling this afternoon.

Clerk of the Committee: Those of you who are going to Sudbury this afternoon, there will be airport taxis outside the main door at the main lobby at 5:30. I suggest that you bring whatever bags you have with you this afternoon and I will arrange for the room next door to be available for you to put them in. The other suggestion I have is that we start immediately at 2 o'clock so that we finish on time and are able to make the plane.

Mr Tilson: I know you are pressed for time, but issues are raised by delegations. As a new member of the Legislature, I have no idea what the committee that Mr Grossman just referred to is. I am wondering if the staff could provide us with information on that.

The Vice-Chair: Is someone here from the staff who could provide that information to Mr Tilson?

Mr Irwin: I am Terry Irwin, a senior policy adviser with the ministry. I believe Mr Grossman was referring to the Residential Rental Standards Board. Bill 121 makes provisions for incorporating some of those functions within the new rent control system.

1220

KLAUS VOGEL

The Vice-Chair: The final presentation of the morning is from Klaus Vogel. As you know, sir, you have 15 minutes to make your presentation. I advise you to reserve some of your time for conversation with the committee about that presentation. Would you introduce yourself and any organization you may be representing for the purposes of Hansard.

Mr Vogel: I thank you for the opportunity to let me speak to you. My name is Klaus Vogel. I came to Ontario in 1971, almost exactly 20 years ago. I am a Canadian citizen and have lived in Toronto since my arrival. I was sent to Canada by a related family to look after their real estate investments, which at the time, 1971, included 1,400 rental apartments in Ontario. This portfolio was enlarged to over 6,000 suites in subsequent years. None of the buildings was ever sold.

In 1983 I started my own company which, together with European and Canadian partners, invests in real estate in Ontario and southern California. We own, among office buildings, shopping centres and industrial buildings, over 4,000 rental suites in Ontario. We are also long-term investors.

Before I came to Canada from Germany, as my accent probably told you, I participated in a large-scale research project as a specialist in international law and international politics. The project was funded by the Volkswagen Foundation and co-ordinated by Sir Ralph Dahrendorf, who later became head of the London School of Economics. Part of our research entailed the analysis of legislative processes from inception to implementation, such as what we are witnessing here, with the objective of discovering which groups influenced the outcome of the process and what methods of persuasion were used.

It is particularly with these eyes that I looked at and followed the introduction and passing process of Bill 4 and now the proposed Bill 121.

When you read and study the transcripts of the Bill 4 hearings, which I did, word for word, it becomes very evident and clear that the hearing process was ineffective because the NDP members were not prepared to open their minds, not even for purposes of discussion, to any proposal that did correspond to their initial position. It appears to me that you were not prepared to listen, to learn, to improve, to modify and to fine-tune the legislation. To even the best argument you either responded with complete disinterest or broad stereotypes.

Let me give you, the NDP members of this committee, three examples where I cannot understand why your minds do not force you to open up and at least follow through with a thought process.

1. When in 1975 the NDP, together with the Conservative Party, introduced rent control, a system was chosen that did not directly help the tenants in need, but sprinkled the benefits of artificially low rents over everybody, whether in need or not. There are still, today, thousands of tenants who cannot afford their rents and would need help, and there is still a larger number of well-heeled tenants where the only remaining thing they cannot afford is to give up the cheap apartment they are living in. The statistics are available to prove this situation.

Neither Bill 4 nor Bill 121 helps tenants who cannot afford their rent today. However, these laws certainly improve and cement the favourable position of the more affluent tenants whose inalienable right it seems to be to pay a lesser and lesser percentage of their incomes as rent. I cannot understand why, of all the parties, the NDP would want to sustain this fundamental flaw in the Ontario rent control system.

2. During the years of rent control, many buildings experienced different fates, as we all know. It is not uncommon that completely identical buildings standing beside each other have rent differences of 70% to 100%, which in itself does not give great credit to the Ontario rent control system. There have been a great number of landlords who for whatever reasons chose not to take advantage of the possibilities to increase rents above the guidelines. These are many of the owners of older buildings, where rents are still below or around \$500 per month.

You would expect that these owners would be regarded by the NDP as good and responsible landlords. However, exactly these responsible landlords are the ones penalized most by Bills 4 and 121. As a show of thanks for tenant-friendly behaviour, Bill 4 wiped between 25% and 50% off the value of their buildings. Bill 121 will wipe out their cash flow. Older buildings with low rents have a higher than 50% operating expense ratio to income. It is closer to 60% to 70%. Older buildings also need more capital improvements. Bill 121's rent index formula is a recipe for illiquidity in these buildings.

I ask the NDP members, do you not see the gross unfairness of what you have done? Why is it that you lost the ability to differentiate?

3. The third area where I could not understand why you, the NDP members, completely closed your minds, is the introduction of retroactive legislation in Bill 4, which

now is maintained in Bill 121. There the impact and fallout goes far beyond the interest of tenants and landlords.

Let me use a simple example for what you did. You tell your son that he has to be back in the evenings by 11 pm. If he is not, you will deduct \$5 from his allowance. Your son abides by the rule. At the next payment date for the allowance, you tell him that you have deducted \$15. He says, "I was always punctual." You tell him, "Yes, but for the last three days I retroactively changed the curfew from 11 to 10 pm."

In doing so, have you not lost your credibility, trust and your right to educate?

What you retroactively introduced in Bill 4 is no different. In a state ruled by the law, and Ontario used to be such a place, one of the fundamental principles is that the state that demands obedience to the law gives its law-abiding citizens the security of the validity of the law. By passing retroactive legislation you have violated and broken the trust between state and citizens. Your retroactive legislation had a tremendous damaging international fallout for Ontario.

Let me read you excerpts from letters that were written to the NDP government, to various ministries, to Mr Rae and to Mr Cooke at the time by international businessmen and investors.

I am quoting from Dr Huth, who lives in Hamburg. He is an international lawyer who advises North American companies on investments in Europe and, vice-versa, European companies on investments in North America. He is referring to the retroactive legislation, and I am quoting:

"I have discussed this incident with businessmen and friends investing all over the world and did not encounter any remotely comparable situation. In no First World country was a segment of the business community ever confronted with such blatant breach of trust.

"I really do wonder whether it is possible to introduce such retroactive legislation. In all EEC countries it would be against the Constitution and would be an illegal act for Parliament to pass.

"I cannot understand how, in a state ruled by law, one of the fundamental principles of law can be violated.

"We feel here, a government can only then demand from its citizens to abide by the law if in return the government gives its citizens the security and the trust in the validity of the existing law.

"I can assure you that the German investment community is much concerned whether Ontario remains a province ruled by the law or not.

"And you know as much as I, how long it takes to build up a positive investment relationship and how quickly it can be destroyed. The damage is already there."

Dr Jörn Kreke, chairman of the largest specialty retail chain in Europe and member of an economic advisory committee to the government in Germany:

"I find it incredible that the Ontario government is considering a retroactive change of existing law. This surely seems to be a breach of good faith! I am convinced that any retroactive legislation will have a serious negative effect in the international business community and will lead to a reduction of foreign investment in Canada."

Jahr Group is a large publishing concern, Hamburg, Germany. Mr Jahr Sr, who was persecuted by the Nazis, was the first one to obtain a licence to print a newspaper from the Allies after the Second World War. Quote:

"We are an international investment firm with industrial and real estate investments in Europe, the USA and Canada. We are affected by the retroactivity aspect of your proposed Bill 4. The new legislation would severely affect the profitability of our real estate projects in Ontario. These investments have been made in trust and reliance on existing and valid Ontario law. In all our worldwide dealings, we have never encountered such a radical violation of the basic principles of law.

"The introduction of such retroactive legislation sends a clear signal to the international business community: You cannot rely on today's law in Ontario because it might be changed three years from now retroactively."

Werner Otto, who was also persecuted by the Nazis, founded in the meantime what is the largest mail order business in the world. He invested first in Canada in 1962. Quote:

"Quite frankly, I cannot believe that a highly industrialized country like Canada, which is trying to attract foreign investment, would actually take such a step which severely affects all investors who made their investments relying on the existing legal situation. Undoubtedly, such retroactive enactment would destroy the confidence of all investors—not only in real estate—for a long time."

Can you imagine how I feel as a proud Ontarian receiving and reading such letters? I am not suggesting that you, the NDP, abandon your promise to help tenants in financial need, but I also know there are less damaging and better and more sophisticated ways to achieve this. You, the NDP, in my opinion have not been prepared to explore these alternative solutions. Why? What is it that prevents you from doing so? Why is this committee so ineffective? Listening to, reading and analysing your statements I have only one conclusion: You nurse a simplistic stereotype image of residential landlords. You really suffer from a landlord phobia.

Your Bills 4 and 121 ooze hate, mistrust and revenge. They use undifferentiated sledgehammer methods and show the clear intent to destroy an industry. In order to achieve this, you do not hesitate to apply methods that shatter the fundamental principles of a state ruled by the law and that damage Ontario's reputation as a good and stable place to do business.

1230

How is it that when it comes to Ontario's rent control you cannot see the forest for the trees, and that when your colleague Mr Pilkey's Ministry of Industry, Trade and Technology analyses another country everything seems so simple and so clear? I received this brochure recently, "Germany Reunified—New Opportunities for Ontario Firms," dated March 1991, and I would like to quote from that. Of course, housing is one of the great opportunities. Why? This is the quote:

"One of the most acute infrastructure problems facing eastern Germany is the housing shortage. In Leipzig alone it is estimated that there is a shortage of 50,000 houses,

30,000 of which are needed immediately. The opportunity reflects both an insufficient supply of new units as well as the continuing deterioration of the existing housing stock. Housing builders in the GDR had little incentive to renovate due to highly subsidized rents."

Two paragraphs farther down:

"In response, the government"—the Ontario government—"has offered some assistance programs to support private spending on renovations and construction," which means I can obtain Ontario money to fix up east German apartment buildings. I am coming back to the quote now, "In total, it is estimated that development of the eastern German housing stock will require investments of DM230 billion."

After reading this, I am speechless. Thank you for listening to me.

Mr Solá: I think page 6 is devastating in your summary. Your statement, "Your Bills 4 and 121 ooze hate, mistrust and revenge," I think says it all. Yet I find it surprising that in the brochure you received they can see what subsidized rents and rent control have done in eastern Germany, yet are trying to bring that system here. Do you have any comment on that?

Mr Vogel: I cannot explain it by logic. I only can explain it that so many NDP members who were in areas like Parkdale and know what has happened there have really emotionally an aversion against landlords here. It is relatively simple to analyse. Certainly there is no spirit here in this committee to try to work something out which works for everybody. I could not believe it that when somebody offered his time, we would not be prepared to listen to experts coming from the United States. Why do we not work together and try to resolve something?

Mr Tilson: This legislation has introduced a new concept I am not aware of, which very few jurisdictions have, and that is the whole subject of search and seizure. I do not know whether you have given any thought to that. I think it is in part IV of the bill. Do you have any thoughts on that whole concept of the search and seizure proposal?

Mr Vogel: Yes. I feel we are confronted with such mistrust—we have been running these apartments for years and years and no big complaints. It is just because a small group has misused legislation that was, of course, imperfect, because it is impossible to make perfect rent review legislation. But that is why I referred to apartment

buildings standing side by side, being of identical size with the identical number of suites, and one which has been sold and gone several times to rent review has very high rents and the other one has very low rents. Of course, it is hard for tenants if they cannot control what is happening to their building, but I do not think this legislation is going to help the tenants who cannot afford it today. There has to be a different system.

The Chair: Thank you. Mr Winninger.

Mr Winninger: Mr Vogel, if indeed your views are representative of the landlord community, I regret this negative impression that our government is somehow a draconian force in your lives. I am particularly surprised that you would complain about retroactivity of this legislation. No one from the landlord community complained when the RRRA was proclaimed at the end of 1986, and it was retroactive right back to July 1985. We never heard any complaints about it then.

This government, I think, has been particularly sensitive in the way it has put forward Bill 121 because it provides for transitional provisions that would allow capital costs up to the 3% cap that were incurred right back to January 1, 1990. I think there has been more regard shown and more consideration shown for the landlords than was the case when the RRRA was proclaimed retroactively to the serious detriment of the tenants.

Mr Vogel: Can I have one moment to ask you to just forget the content, that we are dealing here with rent review. It is the principle, that introducing negative retroactive legislation is just something which in every civilized country is unconstitutional. We will see whether it is unconstitutional here. I can tell you it definitely is unconstitutional in any of the western European countries.

Mr Winninger: Why were you not complaining about that in 1986 when Bill 51 was proclaimed?

The Vice-Chair: Thank you, Mr Winninger. Thank you, Mr Vogel. We appreciate your presentation.

I remind committee members that we have a very busy afternoon. It is my intention or the Chairman's intention to start precisely at 2 o'clock. As you see, we have lost 35 minutes this morning. We cannot afford to have that happen this afternoon.

The committee recessed at 1236.

AFTERNOON SITTING

The committee resumed at 1400.

FEDERATION OF NORTH YORK
TENANTS ASSOCIATIONS

The Vice-Chair: Good afternoon. We continue the work of the committee hearings on Bill 121.

Our first presentation for this afternoon will be from the Federation of North York Tenants Associations. Sir, would you come and sit at the table and identify yourself for the purposes of Hansard and your position within the organization. You have 15 minutes to make the presentation to this committee, and it is appreciated if you leave a little bit of that time for questions and answers with the committee. Welcome here this afternoon.

Mr Gosschalk: Where is everybody else?

The Vice-Chair: They will be here. If you would begin, please.

Mr Gosschalk: My name is Bob Gosschalk. I am president of the Federation of North York Tenants Associations, which was founded on March 4, 1991, in the city of North York. It is a non-profit Ontario corporation which is about to receive its letters patent within a few weeks.

The Federation of North York Tenants Associations was founded by a group of prominent executives of tenants associations located in the city of North York, because the need for a strong, politically independent, well-organized and effective umbrella organization in the city of North York was long overdue. Because of very limited time allowed to us, I would like to start our presentation now by suggesting that the NDP has made a remarkable attempt to avoid the original promises it made to the tenants of the province of Ontario.

This new Bill 121 is indeed a compromise which indicates that the socialist government of Ontario has abdicated its total responsibility to the tenants of Ontario. In *An Agenda for People*, the NDP campaign document, it was stated that New Democrats would bring in rent control. There would be only one increase per year based on inflation. Excuse me, sir, I am not going to go on with this gentleman talking.

The Vice-Chair: Just continue, sir.

Mr Gosschalk: He is not paying attention to me. There would be no extra bonuses to landlords for capital or financing costs. The NDP document stated, "It's simple, it's fair and it avoids the bureaucracy which has frustrated both tenants and small landlords." This time I agree with Ms Poole, "It is quite clear that this legislation is not their campaign promise."

In spite of the many good points in this legislation, it leads us to believe that we just cannot trust any government politician when it comes to making good on campaign promises. The Minister of Housing appears to have had no intention to honour his promises to the hundreds of thousands of tenants in Ontario. One wonders what the next government will promise in order to get the votes from the Ontario tenants.

The most objectionable aspects of this proposed legislation are:

1. The 3% additional cap over and above the annual guideline, which would result in landlords receiving an annual increase of at least 8.4% each, which can then be compounded for each following year.

2. Amounts allowed for capital expenditures to be stretched over more than one or two years, depending on the size of the apartment building.

3. This bill does not contain definite provisions for a reserve fund to force the landlord to set aside money to take care of capital expenditures. Instead, the tenant has to make, upon application by the landlord, an annual additional payment to finance the business of the landlord, who in a majority of cases has been negligent during the past number of years to properly maintain his assets.

4. This act does not protect tenants living in Ontario Housing Corp rental units. The NDP government apparently believes in tenant discrimination.

5. Bill 121 does not provide a time limit. Hearings can drag on for a long time. Also, because of lack of personnel and the incompetent bureaucrats, hearings take a long time to start. The results are that in the case of a decision made against tenants dating back a long time, the amounts of money payable to the landlord could be financially disastrous for many tenants, even if these payments, as now indicated in the legislation, are stretched over a 12-month period.

6. The question of the ability, integrity and work experience of the rent officers comes to the fore when this Bill 121 puts so much power into the hands of one person without recourse.

7. In Bill 121 there is no recognition or legal definition of a tenants association or its agent or legal counsel representing member residents of an apartment building or buildings so that tenants can be better represented at local rent review offices, the divisional Court or with senior rent review officials.

8. In the case of a landlord applying for rent increases, there are no provisions for the legal costs involved by the tenants, especially when a tenant affected by an order of a rent officer or the director may appeal the order to the Divisional Court, but only on a question of law.

9. There are no provisions made in Bill 121 for appeal hearings. This bill sets out terms which cannot be appealed, and in our opinion this is, to say the least, very undemocratic.

10. There is no provision that tenants must have the right of access to engineers' reports, inspection reports and all other documents that pertain to an application by the landlord for an increase to cover capital expenditures.

11. Subsection 20(5) allows a rent officer to calculate interest rates on a capital expenditure, regardless of whether the expenditure is financed by borrowing, by the landlord's own funds or by both. We question the ability of the rent officer to make this determination and also the arbitrary contents of this ruling.

This proposed rent control legislation is certainly not what we had expected to receive from the Minister of Housing after all the time and effort that many tenant associations had put into their representations with respect to Bill 4. It was obvious that the minister and his staff already

had made up their minds when they introduced the green paper in February 1991 and the standing committee on Bill 4 was still hearing representations from both the tenants and landlords.

The fact that there is no longer an appeal unless it is to the Divisional Court on a matter of law only is disgraceful. Either the tenant can choose an administrative tribunal or a hearing, but there is only one level without that avenue of appeal. Again, we must agree with Dianne Poole. This is a victory for the bureaucrats at the Ministry of Housing. In their effort to "streamline" the process, they rejected one tenet of democratic government to deny that type of appeal.

No person in his right mind is going to choose an arbitrary decision from a government bureaucrat over a public hearing where all parties can be heard and a democratic decision can be made by a panel of three commissioners. The dictatorial aspects of this proposal are frightening and without a proper appeal process. We are certain that politics will pay a large part in the decision-making process, regardless of which political party is in power.

We agree again with Dianne Poole—and I am sorry she is not here; I disagreed with her the last time—when she says "I do not think that it is going to be good for tenants or landlords and I do not think it is going to be good for the process. I think there is somewhat of a conflict of interest in having Ministry of Housing bureaucrats decide everything." It is wrong.

Another very important matter is that the rent officer who makes the decisions is not obligated to give written reasons. We would like to be entitled to know the reasons why a decision has been made, on what grounds and to what extent. If the Honourable David Cooke or the new minister of today says tenants need protection, that is what we are looking for.

We also insist that if appeals to the Divisional Court are to be made on matters of law only, which we strongly object to, then this part of Bill 121 should be extended to having appeals based on fact as well.

There are other aspects of this bill which we strongly object to, but our time is up. Hopefully someone else will cover those areas. May I thank you very much for inviting us to this important meeting.

Mr Tilson: Thank you for your presentation. I would like you to comment with respect to the bureaucracy that you anticipate this legislation will put forward. Obviously, you are not the first who has raised the issue of no appeal with respect to matters of fact and only with respect to law, but not just that, the filling out of the volume of forms, the knowing of the little rules which have yet to be explained to us for definitions and those sorts of things. I predict that a whole new class of advisers—

Mr Gosschalk: What is your question, sir?

Mr Tilson: Would you comment with respect to the bureaucracy on whether or not tenants and landlords will be able to simply manage the bureaucracy of this system?

Mr Gosschalk: I doubt it. Our experience over the last seven years—in my case, I represent the largest tenants' association in North York, the St Andrews Tenants

Association, with over 800 members. We are incorporated. The new federation we formed last March is to act as an umbrella for all the tenant associations in North York hopefully.

The experience of myself and other presidents is that we have run into a tremendous mountain of bureaucratic paperwork and indecisions, but also we have had decisions made by rent control officers which later on—in fact we have a case right now, which I cannot discuss here, where they made a terrible mistake. The decision was made, the landlord has already made—it is a financial situation. If we add any more bureaucrats to this, we will go crazy.

1410

The Chair: The answer is, there is lots of paperwork.

Mr Gosschalk: Yes.

The Chair: Thank you. Next questioner, Ms Poole or Mr Brown.

Mr Gosschalk: You missed my notes. I can give you more of those.

Ms Poole: I apologize for that. I tried to cram too many meetings into the lunch hour.

Welcome to the committee, Mr Gosschalk. I am just looking through your brief, and you have a number of comments here about the hearings and the appeal process. Quite frankly, I agree wholeheartedly with what you have said. What do you suggest would be meaningful to allow tenants participation and the right to decide whether they will participate in the hearing and also the appeals process?

Mr Gosschalk: The first thing is that. I would like to Ms Harrington to hear this. We have gone through previous meetings. There is no mention in the act, no official recognition of a tenants' association, period. In other words, we have no legal right in the act. You go through the act, and I have it here, and find it. There is no definition of what a tenants association is all about and who should represent tenants if tenants wish to be represented. It is very important. You have had all kinds of tenants' associations coming before your committee for Bill 4 and this one, and maybe others, I do not know. Mr Chairman, how can you recognize a tenants' association when it is not recognized legally by the government?

Ms Harrington: I would like to tell you that we have gone to the wall for tenants. We have gone as far as we can go. This is the best legislation ever for tenants.

Mr Gosschalk: But you do not mention—

Ms Harrington: Tenants' groups have told us this, over and over. I would like to say that we need help with refining this legislation, and that is why we have asked you to come. Your concern with the hearings is certainly something that we want to look at in depth, and in fact we had a meeting this morning with our ministry people discussing the hearings process. We are going to go into detail with that. We also announced in June a program called Partners in Housing where money is given out for tenants' advocates, for tenants' groups, to enable them, to empower them to speak out and be part of the process in Ontario.

Mr Gosschalk: It is not in the act, and that is what we need.

Ms Harrington: No, I did not say that it was in the act—

Mr Gosschalk: Oh.

Ms Harrington: It was announced by the minister in June.

Mr Gosschalk: Yes, but you see the problem is this, we are asked here, and whoever else is here, I am going to be back here really in about 10 minutes. I came down here especially to bring this to your attention. Unless you put that in the act, what is happening two years from now, three years from now?

Ms Harrington: I understand your concern, but—

Mr Gosschalk: Politicians come and go. We have had three parties that I have looked at, and we may go back through the whole circle again. Who knows? We know, so—

Ms Harrington: I did say very clearly that we are here to empower tenants, and that answers your question.

The Chair: Thank you for your presentation. Your 15 minutes is now concluded, and we will have to call the next presenter.

Mr Gosschalk: Thank you, Mr Chairman.

CHAIM SHAINHOUSE

The Chair: Chaim Shainhouse. Good afternoon. We will be following the same procedure: 15 minutes for your presentation and you can withhold some time, if you like, for questions and answers.

Mr Shainhouse: My name is Chaim Shainhouse. My office telephone number is 769-4158 and I give you that freely hoping that maybe afterwards I can have the pleasure of someone calling me to get some further detail. I have not had the pleasure of being here the number of days that you have been or listening to any other speakers. I have been busy filling out a lot of paperwork for the rent review that has been in existence. I have been doing this for probably 15 years, and the past several years I have been busy working on rent review applications. That is not my profession. My main business is probably management, but always involved in that is rent review and doing all the paperwork involved.

As the previous speaker mentioned, we are now the third government involved in rent review. My complaint is not rent review per se. I live in an apartment and I can afford a house. The apartment is cheap. I have two apartments, as a matter of fact. When the one next to me became available I took it, it was so cheap. I have 2,000 square feet. I pay \$1,100 a month, and for me that is well within my income stream. I may be one of those who are benefiting by the legislation, but I do not think that is the issue.

Even though I am benefiting, I am a firm believer that there is a strong benefit to rent control, because obviously a large percentage of the population has difficulty with increased rents. To give them support, some type of rent control or rent review is beneficial.

However, the problems obviously have been spoken of before: the paperwork involved, the changing of the gov-

ernment, the changing of legislation. My problem that I have with rent review as a landlord or property manager, call it what you will, is that we do not know what to do. Every time we do something, the government changes the legislation.

That would not be so bad—and let me give you an example. If I park my car outside, I will get a \$10 ticket. As a matter of fact, I could not find a place to park here so I had to park in the press gallery. I made a little notation I am up here presenting for a few minutes. I may get a ticket. I know that. It will cost me \$20. That is part of life.

Statutes in this province are such that to create a proper society we have to have laws so there is no anarchy. If I break the law, usually I know what the penalty will be. If I am a polluter and I dump my whatever I dump, my waste, in the wrong area, I may get a \$10,000 fine, I may go to jail for two years, but I know that. I will not get life imprisonment and I will not get the death penalty. I know that. Why do I say that? It is simply that the way society works, one has to know how to conduct oneself.

We have a building in London, Ontario. We have three buildings. Our family took over these buildings in approximately 1975. They did not take them because they bought them; they gave a mortgage and they ended up taking the property back. The building was built in 1969, taken back in 1975, and it was a disaster. For the next 10 or 12 years they were busy pumping money into it. They were spending an average of \$400 or \$500 a suite just to maintain it. I am sure you are all well aware of costs of renovations, and in a building \$500 or \$600 per suite of renovations 10 years ago was a lot of money, four years ago it was a lot of money, three years ago it was a lot of money. We have been spending that for the past 15 years and we have not got anywhere, because the building was built to such shoddy standards, we do not know how the municipality allowed the building to be built. We ended up with the building under foreclosure and we are stuck with it and we have to live with what we have.

Throughout these many years—as a matter of fact, there was one gentlemen—I will not mention his name. He is now in federal politics. He used our building as a stepping stone to get elected. He kept saying, “This is the building, the lousy landlord, lousy everything.” It was unbelievable and he used it and everyone knows that. The newspapers use this building as their headlines all the time.

We have three buildings here. In one of the buildings, one of the meters broke. We had a surplus in the account with Union Gas for two of the buildings, and the third one where the meter broke, they came back and asked us for some money. We said, “Excuse me, we don’t owe it to you.” They came back, and not only did they ask for the money, they asked for a deposit of \$10,000. We said: “What are you talking about? We don’t owe any money.” They shut off the gas on all three buildings. Two had a surplus, one there was a dispute; they shut the heating off. Big headlines in the newspaper, “Slum Landlords Don’t Pay Their Bills.”

We can live with that. We can live with all those sorts of things. We have a bad reputation in those buildings.

That's life. Anyway, the inspectors are on us all this time, and all power to them; they want the buildings improved.

Finally we started improving the building, approximately three years ago. We brought in a roofer. The roofer had some family problems or whatever, and the day he started doing the roof, there was a heavy rainstorm, a flood. The building got flooded. We had to evacuate the building. The city would not let us rent, would not let us do anything. They walked in there with a 30-page work order and in every apartment, everything under the sun was labelled.

We had to basically renovate the whole building. In one of the handouts I gave, which either you will get shortly or—I do not think it was given to you yet.

Ms Poole: Is this the one?

Mr Shainhouse: No, that is not it. I just gave it to the lady a few minutes ago.

In there it will show you three things. One of them will show you an application made to rent review in approximately October 1989. The second one will show you the second application, the same building, for July 31, 1990. There were more than two applications. We have gone to rent review for many years in other buildings. Always it has been the case as we have made the application, usually in six months, five months, a year, they would ask us to provide the submissions.

1420

For some reason, with this one they told us: "You didn't put your submissions along with your applications. We're denying your application because you didn't give it in the time frame." First time in all these years, okay? But they told us: "Because you haven't finished the project"—we are talking a \$600,000 or \$700,000 job—"when you finish the job, you can make the submission. Then you will get the money." The building was empty, let me tell you, and we did not kick anybody out. They all moved out. Tenants moved out.

Most of the job was done around the spring or summer of 1990. So while we wanted to finish the last few jobs—it may be part of my fault; I did not have a chance to put in the application in May or in June. I put the application in July 31. The first effective date was November 1, 1990. Very nice, no problem.

During the interim, of course, the NDP government got elected and passed retroactive legislation and that is why I am here. I am not here to fight legislation. If they want to limit 3% here or 4% here or no extra capital expenses, fine. If you want to pass that legislation, you are in power, whoever you are. There is the opposition, and if they want to fight, that is fine. I may be against it or for it. That is not the issue. The issue is, I have to live with legislation. I have to know how to conduct my life.

I was told, "If you do this you will get so-and-so." The municipal government was on our backs. We were getting fines. We were before the court, everything. We spent \$700,000 or \$800,000. If you should have a chance to look at the submission, maybe a little later, you will see we did not put marble, we did not put fancy stoves, we did not put fancy refrigerators, we did not put \$1,000 fixtures in.

We were asking to raise the rent for a two-bedroom from approximately \$425 to \$525. Possibly with the money we spent we could have got \$900, I do not know. But in London, Ontario, we have in this building—we finished this building last September—54 units in one of the three buildings. We have 12 vacancies still. As a matter of fact, it was 18 vacancies and 6 are rented for September, and a lot of them are students—12 vacancies, \$525, everything included, for a two-bedroom apartment. The one-bedrooms are \$475. Now they are \$435 because we have vacancies there. We cannot rent them. We cannot get a phenomenal dollar. We were not asking phenomenal dollars; \$525 is what we were asking for.

Now it is all illegal. It is all "illegal," and I use that word in quotations, because the concept of illegal is—I mean, what the government is doing is immoral. Retroactive legislation is not fair. If you want to pass Bill 4, if you want to pass whatever you call legislation, no problem. Do not make it retroactive. If you want to pass it for the future, fine. I will live with it, I will know what I can do. I have two more buildings the government wants me to fix up. Fine. I will live within the legislation. I will do what it tells me to do.

We have spent \$800,000. These buildings are owned by retired people. There was a \$1.9-million mortgage with the Bank of Montreal. The Bank of Montreal in August 1990 called the loan. They do not like the people. They do not like the buildings. They cannot get their rents. They called the loan. The owners had to go to various properties they own, had to mortgage them, had to take the cash that they live on to use that to pay for the renovations, to use that to get a mortgage on this property. Now they have no cash flow, because of retroactive legislation. They are retired, they have families. It is not fair. It is simply not fair.

There are two other things I want to mention—and I could harp on this for a long time; I can give you specific examples—but I am telling you, \$425 to \$525 for a renovated unit: new carpet, new kitchen, new washroom, new roof, new windows. The whole hall was redone, the whole building has new pipes, new hot water, new cold water. You name it, it was done to the building. It has a new entrance. It is a three-storey walkup. We put in a security entrance for the people, put in new mailboxes inside the unit. We gave them a beautiful lobby, new doors, new fire exits, everything new, and \$525 is all we are asking. We cannot get it. We are back to \$425. Fine, you will tell me I will get myself 3% if I want to go in 1992 for stuff we did in 1989 and 1990. The revenue in this building is \$200,000, 3% is \$6,000. That does not cover the interest on the interest we have paid on the money for two or three years.

What else is this government doing for us? Now we are talking about other things. Let me tell you something. In the handout you are going to be given an assessment on another building. This building is in Briar Hill. Briar Hill is in Toronto, the Forest Hill area, lovely area. The people pay \$1,000 a month for their apartments. Some of the wealthiest children from the wealthiest families in Canada live in this building, or have lived in this building until they bought their houses or built their houses. I do not

think these people have problems paying the rents, though today, mind you, we are having problems even with the lawyers and doctors in the building because of this situation.

We have gone to rent review a number of times. We have renovated the buildings as tenants wanted, because when we went to rent review four years ago, one of the council ladies—I cannot remember her name offhand—went and brought in the city and got 27 work orders on a luxury building. They went to every socket to find if it was working. I had no problem with that. We went and fixed everything and went to rent review. Fine. Rent review gives us the raise. Thank you very much.

You have another department called the Assessment Review Board, an assessment department. Do you know what they went and did? They said: “Aha, you raised your rents. It’s true you had more expenses, it’s true you spent \$500,000 renovating it, but you raised your rents. Therefore, the building is worth more money,” and they raised the assessment.

What you are going to get before you in a few moments is going to show that this building went to the Ontario Municipal Board in 1986, I believe, and the assessment was reduced from \$490,000 to \$470,000 by the lower board and the OMB confirmed it. We wanted to get it lower, but they confirmed it.

Three years later, because we had gone to rent review, the Assessment Review Board came back to our building and said, “Aha, your rents went up because you had a rent review decision,” and raised our assessment to \$510,000. We are paying \$2,800 per suite—that is bachelors, one-bedrooms, two-bedrooms and a few three-bedrooms—in taxes. Our assessment is double everyone in the area. There are 50 apartments in the area and there are maybe one or two which are close to us. I did not bring all the numbers, but I can do that if asked. We are paying \$2800 a suite. I am not talking about a house, I am not talking about a mansion, I am talking about an apartment. We are paying \$240 a month just for taxes.

We went to rent review and we said, “Fine, we can live with the \$470,000 assessment.” They did this because we went and got an increase because of rent review; they now go and raise our taxes on us. We now have to pay \$30,000 more in taxes this year. We are now going to rent review to get this increase in our taxes. That is not fair, \$2,800.

How do they assess our building? They do not assess it on the size of the suite. They do not assess it on what you get in amenities. My parking is the same as the parking across the road, but he says to me, “You’re getting \$50, he’s getting \$43; yours is worth 20% more.” Our building was built 15 years after theirs. Our costs were more. It does not make the building worth any more, it just means it cost more, and the bottom line is still the bottom line, assessment.

Last but not least, we have a building in Hamilton, a beautiful building, renovated. We spent \$75,000 of government money under the residential rehabilitation assistance program to renovate this building, along with \$100,000 of our own money. We got the RRAP grant because we did not want to raise the rent so much. The government gave us the money and we used it. We did not have to take the

RRAP grant. After we had the RRAP grant, we could have refused it and rent review would have given us the full increase. We said: “No, we’ve got the money. Why should tenants have to pay for it?”

The tenants are appealing all the decisions we have had under form 3 applications for rebates. They are stating we did not give them this form, we did not give them that form. Fine, they are entitled to do that. We have for you a list of approximately 16 tenants who are getting legal aid. Legal aid is paying for all these tenants to apply for form 3 and to fight us in rent review. I am not getting paid for this. The government is paying, helping legal aid to give them money, and legal aid is now helping the tenants to fight us. They are getting paid all the money they have under their tickets, and I am spending hours and hours on this thing, having to fight every application individually.

Three areas we are fighting: the retroactivity of the law, which is completely amoral and immoral; the assessment review, which no one is talking about, which is going after those people applying to rent review and killing them and making them go again and again; and again, you are having a government agency—legal aid is not a government agency, but it is funded strongly by the government, and it is fighting us. So we are fighting with another government department. It is not fair, and I am just a small guy.

The Chair: Thank you. We have time for one short question.

Ms Harrington: I wanted to let you know that we are looking at the bigger picture with regard to housing in Ontario right now, beyond rent control. We have a working paper out called A Housing Strategy for Ontario, and part of that is considering the problem of municipal taxation. One of the suggestions I have heard is that tenants should pay their taxes directly.

Mr Shainhouse: Excellent suggestion.

Ms Harrington: We are going to be looking at various other things.

Mr Tilson: You are quite clear in your submission. It could not be any clearer. Our party put forward an area in the Bill 4 hearings which we probably will put forward again, and that is what we call the democracy clause. Where tenants and landlords agree on something, is there any reason why they cannot do it? In other words, if a capital expenditure that is needed for a particular building results in a rent that is higher than the cap that is being suggested, is there anything wrong with that? Do you have any thoughts on that subject?

1430

Mr Shainhouse: The problem again is majority. The problem with that is, how are you going to get the tenants all to agree? You will have some who will not agree. If you work on a majority, the same problem exists: What if some tenants cannot afford it? I think if it was in the legislation allowing for individual tenants to do it, which is one way to go—and I do agree with some of the things the NDP are talking about. They want to limit certain types of capital expenditures. But it really depends on the type of building.

I do agree that if the tenants and landlord can come to terms, obviously that is a fantastic idea. We have tried it in

one of our buildings. By the way, in one of those buildings we put marble in.

Mr Tilson: I am sorry?

Mr Shainhouse: You know, the marble they talked about. We are one of them.

Ms Poole: I just want to comment on your point about the assessment and the Assessment Review Board and the Ministry of Revenue. You are absolutely right; it is exactly what is happening. It is a catch-22 situation. When there is a rent increase, then the Ministry of Revenue is having the building reassessed, which leads to another rent increase. It is a vicious circle. You might be interested that I raised this in the Legislature this spring. The response I got from the Ministry of Revenue was that it is not happening. But the city of Toronto is taking up the cause and is going to be fighting the provincial government on this to get those rules changed.

Mr Shainhouse: I am taking it to a higher court. That is exactly what the lawyer said to me, that because we went to rent review the revenue was higher, irrespective of costs. They only use revenue in apartments. Everywhere else they use costs, the bottom line. That is the rule.

HIGH PARK TENANTS' ASSOCIATION

The Chair: The next presenter is the High Park Tenants' Association. You have 15 minutes for your presentation.

Ms Lisboa: The High Park Tenants' Association, referred to later as HPTA, represents 2,647 units. We thank this committee for giving us the opportunity to present our views and suggestions on the Rent Control Act. We are addressing this act in a very personal way because we have been adversely affected by the act.

We are in favour of rent controls at this time because, if it were not for rent controls, only the affluent would be able to continue to reside in our area. Is it a prerogative of the affluent alone to reside in such areas? We feel this is not right and that is one of the reasons why we are here.

In the old act there were several grey areas which left the decision entirely to the discretion of the rent review official. We are of the opinion that these grey areas should be eliminated by substituting the word "shall" for "may" in many cases. A good example of this is subsection 89(1) on page 49, line 4.

We respectfully recommend that on page 6, "services and facilities" include item (j), which is "superintendent." In most rental buildings, a superintendent is responsible for all the day-to-day maintenance.

Section 15 on page 17 would be greatly facilitated by a structural engineering report which must be updated every 10 or 15 years. This establishes history and a basis for the verification of landlords' requests for capital expenditures. It also provides a way of maintaining good buildings in our province.

In the same context, we would like to draw the attention of this committee to the fact that such increases should be set up as a separate bookkeeping entry rather than as part of the basic rent. Taking our complex as an example, we have been charged finance charges of 5% each year for four years until the loss was wiped out for some of the

buildings. However, tenants are continuing to pay at a compounded rate for those losses, even though the losses are now non-existent, simply because those finance charges have been added to the base rent.

On page 4, you will notice that I have done an actual calculation. The first one is where the finance charge is added to the base rent and continued through the years. At the end of four years, the base rent has gone from \$600 to \$873. If it were computed the way we have done it, by leaving the finance charge as a separate charge to be wiped out year by year and thereafter no longer on the books, then the base rent of that apartment over four years would go from \$600 to \$724 per month. Total finance charges passed through for those four years are \$1,572 per unit which had a rent of \$600.

Another major part of the rent is made up of property taxes. Using the tenants in our complex as an example, we know that less than 1% would know what the property taxes are for their apartments. It is time that governments should be made accountable for the taxes collected. One way of doing this would be to show the property taxes separate from the base rent of an apartment. Thus, every increase in property taxes would be clearly shown as a tax increase and not as a rent increase.

We therefore submit that the act clearly state that any definition of rent be broken down into these three main components: (1) landlord's charge for rental premises; (2) municipality's charge for property taxes; (3) temporary allowances, such as capital expenditure, finance charges, etc.

Section 25, page 24, deals with inadequate maintenance. However, nowhere in the act is "inadequate maintenance" or "neglect" defined. We are of the opinion that this should be rectified rather than leaving it to the discretion of the individual rent officer.

Subsection 30(4) on page 27 states that interest shall be paid. It should be expanded to specify that the interest payable should be effective from the date the overpayment was first made.

Most of the findings and orders must be dealt with by the ministry, as opposed to a court of law, to help those tenants where affordability governs the submission of an appeal.

The act must require that landlords declare all revenue as income. Since our buildings changed hands, we have had a satellite for cellular phones installed on the roof of one of the buildings. There is a video machine rental installed in the basement of this same building. Our laundry machines used to bring in considerable income for the landlords when it cost 75 cents for the washer and 25 cents for half an hour of drying time. The washers now cost \$1.50 and the dryers cost a minimum of \$1 per hour. We have been told that the cost is high because of the commission that has to be paid to the landlords. All these commissions must be considered as revenue. Most recently, a tuck shop has been installed in one of the other buildings, and we sincerely hope that this act will enable us to monitor all charges for hydro, garbage disposal, etc, of this commercial unit. These charges must not be passed through to the residential units.

The apartments are not getting adequate heat since the landlords gave the heating contract to a company that has a computerized heating system. In view of the fact that we have a lot of seniors and, in the last four years, families with a number of small children, many residents are using heaters to survive the winters. This results in higher hydro costs. In such cases the act must guarantee adequate heating, with enforceable penalties issued by the ministry or the municipality. If landlords apply for an increase above the guideline because of higher hydro costs, such increases must be denied if tenants can prove lack of adequate heat on cold days.

Subsection 50(2) says, "The rent officer shall require that the person be substituted or added as a party to the proceeding"; subsection 50(4) says, "The rent officer shall require that the person be removed as a party to the proceeding." Neither of the subsections mentions the criteria or just cause why the parties should be replaced or removed other than a rent officer's belief that this should be done. We would like to see a more definitive reason for replacement or removal rather than such dictatorial actions.

Section 54 enables a rent officer to direct that an application be amended. Should any changes be made to an application, all affected parties must be made aware of the changes.

In subsection 57(2), we would like to see "forty days" changed to "sixty days." The reason for this is because a number of people might be away, particularly the people who deal with these kinds of matters. I think it is only fair to give everyone enough time to be able to respond to these things.

Section 58 empowers a rent officer to abridge time. We are opposed to abridgement in view of the fact that to date we have required all the time we can get and more to formulate a proper response.

Under subsections 63(2) and (3), we would like to see these time frames extended to 60 days for the same reason as referred to in subsection 57(2). Under subsection 66(3), any evidence obtained under subsection (2), whether it be oral or written, must be brought to the attention of the other party. Clause 76(2)(a), "forty days" should be changed to "sixty days" to be consistent with subsection 57(2) and subsections 63(2) and (3).

1440

At this time, we would like to get back to property taxes and the discrimination exercised by this act against tenants versus home owners. As we mentioned briefly before, tenants are not aware how much of their rent goes towards property taxes. I do not pay for something unless I know what I am getting and for how much. Why should it be any different for any taxes, property or otherwise? Rents are increased by a given percentage. However, every time the rent goes up by four, five or ten percentage points, so do the property taxes.

This gives rise to a fundamental inequity that is a burden borne only by tenants. We would also like to bring to your attention at this time that tenants in high-rise rental do not get or require the same services as needed by single homes. It is unthinkable that the act should continue to perpetuate such discrimination in our democratic society.

In conclusion, we would like to state that we will be submitting a more detailed brief. This brief that is coming has resulted from meetings with a number of tenants' associations and a consensus of the tenants' associations of both 320 Lonsdale Road and 1500 Bathurst Street. Thank you.

The Chair: Thank you. We have time for one question per party. Ms Poole.

Ms Poole: Jan, thank you for your presentation. I particularly appreciate how specific you have been and I think you have made a number of excellent suggestions not only for time frames, but also for what may be termed as some loopholes in the act.

You have talked a bit about the time frame for administrative reviews and hearings. I wonder if you would touch on the appeal process, whether there are any changes from what is recommended in the act to what you would like to see.

Ms Lisboa: Yes, there are. For example, the landlord has a certain period of time in which to submit his application and then the tenant has a certain amount of time in which to appeal that or respond to it. Sometimes there may be an expenditure that was not accounted for in the original when the tenant saw it which may still be admissible by the rent officer to go on to those files. In that case we feel it should be mandatory that the other party, whether it be the landlord or the tenant, be made aware that this is going to be added to those papers.

Ms Harrington: I did not catch your name.

Ms Lisboa: Janet Lisboa. I am president of the High Park Tenants' Association.

Ms Harrington: The first thing I want to do is to thank the tenants for providing us with this lovely brief, which obviously came out of your pockets, and all the time that went into looking at every section and subsection. I appreciate it.

Correct me if I am wrong, but if I got this right, your first comment was that if it were not for legislation like this, people would not be able to reside in your community.

Ms Lisboa: That is correct. I can prove it to you, because right up to two years ago you could not find one apartment vacant in our residential complex, which is made up of 10 high-rise buildings and 36 town houses. Today, when a tenant leaves a town house or a three-bedroom, sometimes a two-bedroom or sometimes even a bachelor apartment, that apartment stays vacant for one month to a year. What is the point in going for a higher increase if your apartments are going to sit vacant? I do not see any point in it. I just see a reason for throwing some tenants out. That is what I see behind it.

Mr Tilson: Following along with the discrepancy between incomes, assuming one can define—

Ms Lisboa: It is not a discrepancy, Mr Tilson; it is a configuration.

Mr Tilson: All right. Assuming one can define the definition of luxury apartments, should there be rent controls on luxury apartments?

Ms Lisboa: Ours are not luxury apartments. Look at the vacancy rate today. It has gone up, so those who can afford luxury apartments will go to luxury apartments. If they cannot afford them, they will sit vacant.

Mr Tilson: So what are you saying, that there should or should not be rent controls on luxury apartments?

Ms Lisboa: I think we should have rent controls for everything, until the vacancy rate improves far more than it is now.

The Chair: The question has been answered. Thank you very much for your presentation. Time has expired.

SAM CANCELLA

The Chair: We have to move on to the next presenter, Sam Cancilla. Mr Cancilla, we will be following the same procedure—15 minutes. You can withhold some time for questions.

Mr Cancilla: I have come down from Barrie. Thank you for allowing me to speak to you. I am a merchant in Barrie and I do not represent anyone really, other than my wife and myself. I am not a corporate body or a corporate number. I just speak for my wife and myself.

My wife and I have resided in Barrie all of our lives. We own an 11-unit apartment building in Barrie and I think we do a pretty good job of looking after our tenants and our building.

We rent our apartments for \$361 for a one-bedroom and \$410 for a two-bedroom. This includes heat, water and parking. Most units have balconies. These rents are about half what the market rents in Barrie are. Incidentally, they are about \$371 a month less than what the Barrie Municipal Non-Profit Housing Corp charges for similar accommodation across the street. Those are their market-rent units.

When we bought our building, the vendor charged us the fair market price and agreed to take back a first mortgage at approximately 6.75% interest. At that time, we were advised by the provincial rent review office that when our mortgage came due in five years we would be allowed to adjust rents to cover any increased debt costs due to any higher interest rate. My wife and I then invested our life savings in the project, hoping that for our old age we would have some security and at least a minimal return on our investment.

If Bill 121, as written, becomes law, we will lose our building and our life savings invested in it.

In Bill 121 there is no provision for increased debt costs due to higher interest rates. Even Bill 4 had that provision in there. There was some allowance for higher interest. If we assume that our 6.75% mortgage comes up for renewal in five years at, say, 10%, which would be a conservative figure, we would require an extra \$16,000 from the building to cover only first-mortgage debt service. Where would the money come from? We could not handle that debt and we would lose the building.

Bill 121 has to be altered to provide honest landlords with the opportunity to at least be able to pay their mortgage costs. Mortgages are an essential part of most apartment buildings, as small as we are. They are as relevant to

operating expenses as heat, hydro, taxes and insurance. You must give consideration to the issue of financial costs. The inherent spirit of any law should be fair play and justice for all. Bill 121, as it stands, will deal a devastating blow to virtually every small building owner who will be required to seek financing renewal.

Regrettably, I trusted government publications. I have them all here and I will give them to you as exhibits. This is all the information that was given to me at the local rent review office. I will not bore you with all the details, but it says very clearly in here that your financing costs will be an allowable expense. I have those as exhibits. I am sure the province has plenty of them. I will give them to you.

Regrettably, I trusted the government. I trusted the publications and I trusted the government personnel when I sought advice prior to purchasing the building.

1450

Your Bill 121, as it stands, will serve no one. It will chase the last honest landlord from the rental accommodation market, leaving a problem compounded by a poor piece of legislation.

In closing, I am going to make one final statement. I have lived in Ontario all of my life. I guess all the time in your business life you are always thinking maybe you could get scammed by a guy selling boiler room stock, maybe you could get scammed by buying property in Florida. I never thought for a moment I had to watch out for my provincial government. What it has done to my wife and me is jeopardize our lives. We are saying now that in five years' or four years' time, when our mortgage comes due, we will not be able to get enough rent even to pay that interest. My tenants are enjoying rents now at half the rate. Should they not be required within five years to at least pull up their socks a little bit so that I can pay the mortgage? That is what Bill 121 is doing to us.

Again, I am not a corporate number. I am sorry I do not have a fancy handout for you. What else can I tell you?

Mr Tilson: Sir, we have had a number of witnesses come before us and tell us they will have difficulty getting financing for new capital expenditures, but what I understand you are saying is that you anticipate having difficulty with the bank renewing your mortgage, if interest rates go up, because of Bill 121. Is that what you are saying?

Mr Cancilla: Sir, I do not quarrel with your decisions on capital expenses. I am saying that when my mortgage comes due on the building, I am not going to be allowed to charge enough rent to pay my mortgage interest, my first mortgage. The building is gone.

Mr Tilson: Have you had any discussions with your banking officials, whom you deal with in your banking, as to what their position will be on the renewal of your mortgage?

Mr Cancilla: Yes, I have. If there is no financial statement to back up the mortgage, they will not lend me the money, quite simply, if I do not get enough rent.

Mr Tilson: You mean they will not renew the mortgage? Because that is a whole new issue.

Mr Cancilla: No, no. The mortgage I have now is with the original vendor.

Mr Tilson: Will he renew the mortgage?

Mr Cancilla: No, I do not believe so.

Mr Tilson: Thank you. Those are my questions.

The Chair: We have a couple of extra minutes with this presenter.

Mr Brown: I think the financing problem is one that is obvious to at least all of us on this side of the room, but I would like to pursue with you another question, and that is the question of building size. As you know, Bill 121 differentiates on the basis of whether you own a building that is over six units or under six units. We have been trying to get some rationale from the government on why this differentiation. Most of us believe that if you are going to differentiate, the shape of the building and the age of the building should be the reason. Could you tell me how this will affect you, the reduced rate, vis-à-vis somebody with a six-unit building?

Mr Cancilla: I do not think it is going to help me, sir. I have 11 units and I do not think it is going to help me at all. All I want from you is just some assurance that in four years from now I can charge enough rent to pay my mortgage. That is all I want to do. I do not want to fix anything up, but I do not want to cheat anybody. I just do not want to lose my life savings.

Mr Brown: Those are all the questions I have. Thank you.

Ms Harrington: Our government, with regard to proposing Bill 121, looked at the different necessities that small landlords had and some of the increased costs that small landlords had. I think we have shown a flexibility in our guideline, but as you know, it is only up to six units. Now that is something we are looking at as well, whether or not the definition of small building should be, say, 12 or something like that, because of the higher cost.

The other thing we are also considering is your problem of interest rate changes, so that is something we are interested to hear from you about. You are saying that when you bought it, you were passing your financing costs through to your tenants and this is the problem with stopping this now?

Mr Cancilla: No, madam. When I purchased the building, I knew the rents were low and the lady who was selling it to me knew the rents were low. It was an estate. She said: "Fine, Sam. I'll give you a five-year mortgage at 6.75%." That was fine. The tenants would enjoy rent at about half for five years. I had no problem with that. It is just that with the way Bill 121 reads now, in year 5 I will not be able to adjust my rents, and if I have to pay 10% I guess I should be saying to you, "You guarantee me my mortgage at 6.75% and I will leave my rents like they are for ever."

Ms Harrington: I think you can understand from our point of view as well that what we want across Ontario is stability for the tenants, so they will not have the uncertainty of not knowing what they are facing next year or next month, because the apartment is their home and this is the situation you have run into.

Mr Cancilla: I understand that wholeheartedly, but I guess my problem is, what is going to happen when I lose the building? Who is going to take it over?

Mr Tilson: Premier Bob.

Mr Winninger: I have two brief issues I would like to raise with you. First, right now you are enjoying an interest rate that is well below market rate, so you are actually benefiting right now from the vendor-takeback mortgages.

Mr Cancilla: My tenants.

Mr Winninger: If the mortgage rate goes up when you are called upon to renew it, the higher interest rate will be balanced out by the lower interest rate you are enjoying now.

The other point is a more fundamental point. When you purchase that building from a vendor you want to pass through your financing costs, but if after five years the equity in the property doubles, the tenants never derive any benefit from that, having borne the full cost of your financing. How do you reconcile that?

Mr Cancilla: First of all, sir, I am going to tell you that if Bill 121 goes through as written, I will have no equity in that building. That building will be a liability. No one will want to buy it. Who is going to buy it if you cannot even finance it? Who is going to buy it if you cannot make enough from the rents to pay the interest?

Mr Winninger: That is what you are speculating on.

Mr Cancilla: There is no equity. When you only allow increases for municipal taxes, for heat, for lights and water, there is nothing in there. I cannot attack my principal. I will not be able to pay a penny off on my principal for five years. I am not even worried about that. Just let me pay my interest.

Mr Winninger: When is the five years up?

Mr Cancilla: About three years from now. I am on pins and needles.

Mr Winninger: Yes. None of us can foretell the future, can we?

Mr Cancilla: Well, I can when I read Bill 121, because it says in there I cannot deduct my interest costs. So you have set my future for me. If that goes through as written, you have wiped out my life savings.

Mr Winninger: In your opinion, at this moment.

Mr Cancilla: I am sorry, I am not talking opinions. I do not want to argue with you.

The Chair: Mr Cancilla, I wanted to ask you—maybe I missed it—what was the value of the building when you bought it?

Mr Cancilla: It was about \$44,000 to \$45,000 a unit.

The Chair: Times 11?

Mr Cancilla: Yes.

The Chair: What was your down payment on it?

Mr Cancilla: It was \$50,000.

The Chair: That was your life savings?

Mr Cancilla: Yes.

The Chair: I see. I am assuming that if you had kept your life savings in the bank and bought Canada savings

bonds, you would be getting 10% or 10.75%, maybe, if you are lucky, 11% return without worrying about what was going to happen three years from now?

Mr Cancilla: Easily.

Mr Mammoliti: What is it worth now?

Mr Cancilla: This gentleman asked me what it is worth now. It is probably worth less. It is probably worth—

The Chair: He is out of order.

Mr Cancilla: I am sorry.

The Chair: Thank you for your presentation, Mr Cancilla.

Mr Cancilla: Thank you for hearing me.

1500

ONTARIO OWNED-HOME LEASED-LOT FEDERATION

The Chair: The next presentation is from the Ontario Owned-Home Leased-Lot Federation, Phyllis Baker. You have 15 minutes for your presentation. You can save time for questions and answers if you wish. We need you and your guest to introduce yourselves for the official record.

Mrs Baker: My co-presenter or support is Ruth Hinkley, who is a member of the federation from Wilmot Creek.

The members of the Ontario Owned-Home Leased-Lot Federation welcome this opportunity to speak to you on many of our concerns. We are hopeful that our comments will be considered when you make your report to the Legislature.

The Ontario Owned-Home Leased-Lot Federation was founded in 1988 as a means of addressing concerns expressed by purchasers in adult lifestyle communities where a permanent structure is built on leased land. The purchasers entered into a 21-year lease less one day with the landlord-developer.

Permission for development of these sites was given by the municipalities after the developer submitted a site plan, thereby avoiding the requirements for a plan of subdivision as required by subsection 49(3) of the Planning Act.

At the present time, nine home owner associations with a membership of approximately 4,500 retired persons and those planning for retirement belong to the federation. The board of directors comprises two representatives elected by each member association as well as a chairman and a secretary-treasurer.

Since its inception, federation members have communicated with federal, provincial and municipal governments on a variety of issues including the classification of home-owned leased-lot communities, assessments and taxation—in most of our communities this is an ongoing situation vis-à-vis the Assessment Review Board and also the Ontario Municipal Board—rent review, leases and property standards.

The federation agrees that many sections of Bill 121 do apply to tenants in home-owned leased-lot communities. However, there has been no attempt to recognize the review of these communities by the interministerial liaison

committee set up in 1990 under the Ministry of Housing with representation from other ministries. As well, the bill does not reflect the comments on page 68 of the consultation paper, Rent Control Issues and Options, in relation to the coverage of such communities under the Rental Housing Protection Act.

Further comments on the bill are as follows: In part I we will comment on those sections of Bill 121 that need clarification and possibly amendments. In part II, we will address situations and problems particular to this type of community and offer some alternatives.

Classification: For some time we have had problems with the designations "mobile home" and "mobile home park" and would prefer the designation "home-owned leased-lot." Previously the federation had suggested the term "planned retirement community." However, many communities now in existence or on stream are designated for families and young adults as an affordable type of housing. The term "home-owned leased-lot" refers to a type of housing development where one owns a dwelling unit, usually mobile, site-built or modular. Rent is paid to the landlord-developer for the land on which the home is situated.

None of these homes are easily mobile in the true sense of the word, as they are intended to be fixed, permanent and year-round homes. The units are fixed to the land with a pod, cement block or poured cement foundation. They comply with building codes and are equipped with underground services. The houses are marketed as offering a lifestyle and are seen as an alternative to conventional types of housing. The purchase may include services and amenities such as swimming, tennis, golf, sauna, spa, etc.

The federation respectfully suggests that consideration be given to an appropriate definition for this type of home and community.

The federation supports section 6, which reads:

"A landlord shall not increase the rent charged for a rental unit unless at least 12 months have elapsed,

"(a) since the date of the last increase for that rental unit; or

"(b) if there has been no such rent increase, since the day the rental unit was rented for the first time."

There have been abuses in the past whereby purchasers have purchased in August, September and October, and then on November 1 received a notice of a rental increase to be effective February 1.

Extraordinary operating costs, capital expenditure and increases over the guideline: The federation accepts the fact that increases in operating costs for taxes, hydro, water and heating may occur from time to time. We feel these costs should be covered by the yearly allowable percentage increase, but there may be exceptions.

A particular concern of the federation is that landlord-developers do not totally separate operating and maintenance costs from land acquisition, construction and sales operation costs. Most parks receive, after a long period of time, an item called a cost maintenance statement. We have much difficulty getting the landlord to explain some of the items and the costs for the items, and with the advent of rent review of course they refuse to answer our questions.

The rights of landlords to phase in increased costs of 3% above the guideline in each of two or three subsequent years will cause hardship for residents as they would be facing increases of 8% to 9% for each year. I would ask, please, that the committee clarify this for us.

With regard to consent to capital expenditures, we would question whether the consent is by all tenants, one tenant or a percentage of the tenants in leased-land communities. We would appreciate clarification.

The amount of interest charged by landlord-developers to tenants as part of the maintenance costs is causing tenants to question business practices of the landlord. Many leased-land communities are totally owned by family members, and concern has been expressed whether these dealings have been at arm's length.

Specific concerns of home-owned leased-lot communities standards: The compliance and approval process under the Planning Act does not apply to communities such as ours. In some instances poor design, use of substandard material and mediocre workmanship result in increased maintenance cost. One landlord to our knowledge is in violation of standards and occupancy from the township. Not all municipalities have a property standards bylaw and those that do, do not always enforce them.

We recommend that legislation be enacted to impose obligations on the landlord-developer to maintain facilities and services to the level originally contracted for and to provide more suitable remedies to tenants, rather than having to initiate individual lawsuits against the developer, and these are increasing as time goes on. Also, require developers to meet municipal construction standards at the outset to reduce the inevitable deterioration and resultant cost of maintenance which is passed on to the residents.

Conversion: There is no protection against conversion in communities where the resident owns the dwelling and leases the land. There is a documented case in Chatham where this has actually happened. The federation recommends inclusion in the Rental Housing Protection Act of such protection.

Withdrawal of services: The federation has received many reports of withdrawal by the landlord of services specified in the lease, such as clubrooms have been closed, shuffleboard courts are closed, garbage pickup has been discontinued, etc.

Many other concerns have been submitted to the inter-ministerial committee. We are hopeful that the committee's report will be forthcoming to the appropriate ministers in the near future and that the recommendations will be considered when permanent legislation is enacted.

In conclusion, we express again the federation's appreciation for the opportunity to speak to the issue of rent control.

I might add, as you can see from this, we are a little different to apartments and town house complexes.

Ms Harrington: I would like to start off by saying that we can assure you that your type of housing is an option we want to preserve in Ontario. It is a choice that is important to have and I hope you enjoy living there.

Mrs Baker: We do, most of the time.

Ms Harrington: We want to preserve that. What we recognize is the many problems and pressures of development that have come because of the high cost of land in various parts of Ontario, and the problem of conversion. There is that temptation then to take that land and do other things with it which will give more money.

What you have already quoted in your submission here is that the interministerial committee is still working on that. We will not get a report back probably until September or so. At that point, we will then be taking that report and dealing with all those issues and seeing how it might fit in with this legislation.

As it stands, what we have done is continued the way it has been with protection for the rents you are charged.

My question to you is, how would you like to see this legislation changed?

Mrs Baker: In the permanent legislation, certainly to include the classification particular to our—as I said in this—we have difficulty with “mobile home” and “mobile home park.” This has been a major—

Ms Harrington: I think that will be changed.

Mrs Baker: I am very disappointed that we are not going to have any input and that the report of the inter-ministerial committee has now been again delayed. I understand that since it is an internal document, if the ministers involved do not wish to make it public, we will not have an opportunity to discuss this. I feel we should have some input, some knowledge of what has been recommended at some point, the sooner the better really, in order to respond to it.

Ms Harrington: I guess we will just have to let you know as soon as it is available. Okay?

1510

Mr Tilson: This is a subject of course that was raised in the Bill 4 hearings. Obviously we heard views from different sides at that stage, from the owners and from the people who are using the facilities. Quite clearly, as you have stated, your facility is quite different than an apartment building because in the apartment building, if you have problems, you always have the option to leave and go to another apartment building. In your particular case, if you have problems, they are going to result in a great deal of expense in your moving.

Mrs Baker: The problem is resale because there is a restriction in the leases now as to resale.

Mr Tilson: I am referring specifically to the mobile home.

Mrs Baker: Yes.

Mr Tilson: I do not even know how you would move those things. I imagine the cost would be quite considerable if you decided to move to another site.

We raised this issue, of course, in the Bill 4 hearing and we got the same answer that I assume you are getting that there is an interministerial committee proceeding on it. In my view, this whole subject is outside the purview of this whole area and should be dealt with on its own merit in a different piece of legislation.

Mrs Baker: This has been ongoing, Mr Tilson, for the last three years. We have met here at Queen's Park with various people, and certainly when Mr Owen was member for Simcoe Centre he presented a private member's bill in the House.

Mr Tilson: That is my very point, and I would hope that this committee would bring forward its results soon, and further, that you would have an opportunity to make presentation to that committee.

Ms Poole: I can certainly verify that Mr Owen pursued your cause quite vigorously. I think I sat on three different committees where he brought the whole issue to us for discussion, so I hope it will be resolved soon.

By the way, I really appreciate what you have said today, because it has given us a better idea—I will not call them "mobile homes;" it is "home-owned leased-lot"?

Mrs Baker: Home-owned leased-lot, yes.

Ms Poole: We will have to get a little phrase to cover that. I appreciate your presentation, but there was one thing I was going to ask you about. With regard to consent for capital expenditures, you had a question of clarification as to whether consent is by all tenants, one tenant, a percentage of tenants.

Mrs Baker: Yes.

Ms Poole: It is my understanding that section 17 of the act, which refers to consent, only refers to a tenant's own unit, for instance, if they were going to have en suite work just in their unit that did not affect any other unit in an apartment building. I am not sure, since your landlord does not have anything to do with repairs in the unit per se, whether it would even apply to your particular situation. We will ask the ministry for clarification, but that is my initial reading of it.

Mrs Baker: That the land is considered the unit.

Ms Poole: Yes, the land is. So if the landlord did repairs to the land, but say your plumbing broke, the landlord—

Mrs Baker: That is your own problem.

Ms Poole: That is your own problem, and section 17, the way I read it, is only for en suite repairs within the unit, like within the building itself.

Mrs Baker: I see, so that would not—

Ms Poole: So it may not apply, but we will ask for clarification on your behalf from the ministry.

Mrs Baker: Also, the proposal was made that the landlords could phase in increased costs above the 3% over a period of time.

The Vice-Chair: Thank you very much, Ms Poole, and thank you for coming today and making your presentation to the committee.

Ms Poole: Mr Chair, since the ministry representatives are here right now, could we just ask them if they could either give a verbal clarification or in writing?

The Vice-Chair: Yes.

Ms Parrish: Ms Poole, I am Colleen Parrish.

Your interpretation is correct. There are two kinds of capital repairs. Those that have to meet those tests about whether they are necessary for this, that and the other

thing, if they do not meet the necessary test, then the tenant must consent and it only affects the actual unit. So in your case it would only be the land. I am not too sure what kind of repairs might be involved in that situation, but I suppose if you wanted to do major landscaping or something that is not necessary, or whatever, that would be the only thing. Otherwise they have to meet the tests that it is necessary or that it is for energy conservation or whatever.

Mrs Baker: There was a proposal in one park where they were going to be putting in new sewage and water pipes and they would be possibly going on to the land that is rented by individuals.

Ms Parrish: They would have to meet the tests in the statute that they were necessary to meet health and safety standards, for instance, or whatever.

Mrs Baker: Oh, I see.

IB AMONSEN

The Vice-Chair: The next presentation will be by Ib Amonsen. Good afternoon, sir. For the purposes of Hansard, if you would introduce yourself and any organization you may represent. You have 15 minutes. The committee appreciates if you reserve some time for a conversation with them.

Mr Amonsen: My name is Ib Amonsen. I own a small apartment building on Bloor Street at High Park. I am also on the board of the Multiple Dwelling Standards Association, the oldest landlords' organization of any major size in Ontario.

Before I start my presentation, so you know where I am coming from and what I am directing my submission to, I do not mind to circulate this picture of the building I own together with my wife, to give you some idea of it.

So you have some idea of what kind of landlord I am, the last two tenants left me a letter. One of them, he left December 17, 1990, wrote me the letter and he says, "Dear Ib," and about them moving to Ottawa, and he finished off with saying: "Both Cassie and I have very much enjoyed living in the sunny south and have only the best things to say about both our apartment and the property management. We wish both you and your family all the best in the future. Sincerely, Ted McLellan."

Another couple who just left me also bought a house. That was in July, and they wrote to me and my wife: "Dear Ib and Marlene, just a short note to say thank you. The past three and a half years have been a pleasure living in a clean, safe and lovingly cared-for building. Ib, a landlord such as yourself is a rarity these days. Our new address is"—such and such—"Please call us if you need to reach us. Thanks again. Bob and Judy Harvey."

You have a copy of my submission and then there is an additional back page to it. I do not know if you want to circulate that. I was told you wanted 25 copies. I do not know who wants to distribute it; it is here if need be.

You have the tables provided by the Ontario government itself in the green paper, as you all recall, that we received a few months ago—this one here. They were very nice to supply us with it as it made it possible for me to make the calculations, which came out very interesting:

that the average apartment in Ontario was now 19.5% behind the rate of inflation in its rent.

The next page of my submission is regarding the city of Toronto Non-Profit Housing Corp figures for its older apartment buildings. There are four of them available. The rest of them I was not able to use, or they were smaller buildings, or they were new ones.

What you can read out of that is that their operating costs are astoundingly high in comparison to the yearly annual rent increase permitted by the Ontario government for similar buildings in private enterprise. There is a supporting document from where those figures were taken from Cityhome. They were very nice to provide me with that. We have some more papers if you want to have some more information to back up those figures. I have them with me.

1520

Then you have my summary from that submission, and this was all left with David Cooke personally, and I discussed it with him, so he is well familiar with it. He will no longer be our Minister of Housing soon, but that's life.

What I really had great concern about was that here we have, through Ontario, buildings of different vintage. It is a known fact that you cannot look after an old building at the same cost as the cost to look after a building that is five, 10, 15 years old. The costs are substantially higher. I still recall the Premier some years ago saying at a meeting that he could not see how they could make legislation based on size of buildings. My suggestion to you here is, perhaps you can do it according to the age. I think it has much greater justification.

I found it very interesting that the Minister of Housing was not able to, at an earlier meeting, tell us how you are going to deal with all the rental condos. Are they going to be dealt with in a smaller category or in a larger category? As far as I can submit to you, their building maintenance costs are practically negligible. So why should they be granted a higher increase than the ones who own buildings with tremendous maintenance costs?

My last page I would like to read to you, and that is saying pretty well what these figures supplied by the government tell us. Quite the opposite to what Joyce Hall and some members from the Federation of Metro Tenants' Associations claim, what private apartment owners have been subjected to, by these people, is a very successful campaign using figures from extreme cases taken from a very small minority of apartment buildings in an attempt to destroy the credibility of all landlords. The government's own figures contradict the position that they have taken.

The proposed rent control bill with its housing police measures, such as being able to seize all documents of an apartment owner with no return provisions of the documents, can make it nearly impossible for owners to ever get any increase above the annual government-permitted rent increases, since the fact is that more than 95% of all apartment buildings and houses, both privately and publicly owned, can be subject to work orders being issued by building inspectors for the most minor problems, such as a drainpipe has been replaced and not repainted. One of our members was subjected to that not too long ago.

The bill gives no consideration to the loss of purchasing power of my capital invested 20 to 25 years ago, for which I then, at that time, could have bought 13 average houses in my area of Toronto. If I sold the building today I would only be able, after paying capital gains, etc, to buy four or five houses with the remaining capital, which also happens to be my future pension fund and the only pension fund I have.

The proposed bill gives no consideration to the additional maintenance costs of an old building, and I am going to give you some rundown from my own building. For the past three years I have spent about \$50,000 to repair the roof, parapet wall and chimneys on a 14-suite building. I am in the process of rebuilding the 12 balconies at estimates of \$8,000 to \$12,000 each. Those old wooden balconies do not come cheap. My four plumbing stacks are soon due for replacement after 70 years at about \$30,000 to \$40,000 each. I just finished spending about \$30,000 on upgrading one apartment without compensation in higher rent, thanks to Bill 4. I have easily \$100,000 worth of work outstanding, beside the mentioned items, on such things as compliance with new safety regulations and wiring, etc, but after spending 25% to 30% of the yearly gross rental on building maintenance over the past 10 years I can only afford to do so much a year, and this is with a small remaining mortgage to look after, with small payments after owning the building for more than 25 years.

In essence, what these tables of government figures support is that many apartment buildings in Ontario with seven or more units now have average rents nearly 20% below the rate of inflation compounded since 1975, with an accumulated rent deficiency of about \$15,000 each, and that many 50-year-old or older buildings in Toronto have average rents 55% below the rate of inflation for the break even point for operating costs, compounded since 1975.

With an accumulated rent deficiency of more than \$40,000 for each unit, no owner of a 50-year-old building can, under normal accounting principles, keep up a building under the proposed legislation. If any more liberal rent increases should be granted, they should be to the old buildings and not to new rental condos with very low maintenance costs.

As I mentioned earlier, the Premier said at a public meeting where I was present that he could not see different legislation for rental housing based on size. I hope he can see it based on building age.

The Chair: Thank you. We have time for one round of questions. The Liberals are first.

Ms Poole: Thank you for providing the committee with these statistics today. Of particular interest are the statistics related to Cityhome and the annual rent increase over the last 10 years. This relates back to the fact that most of these buildings from Cityhome are again older buildings.

Mr Amonsén: Yes, I took them as examples because that is what I was comparing to make the case for 50-year and older buildings.

Ms Poole: We had previously talked a number of times in this committee—I had mentioned it in my opening

statement but also presenters have made the same comment—that it makes more sense to do it by age of building as opposed to the size of the units. If there is a differentiation in the guideline amount, though that is not sufficient to upgrade these buildings, what way would you differentiate with the way they deal with capital for older buildings and newer buildings?

Mr Amonsens: I do not really know how to answer you with this. I can only go back to my own building. I am in a situation where I expect they might put a historic designation on me in the next 10 years. My suggestion there would be that if you want to put a historic designation on any building, there should automatically be a reduction in real estate taxes, for example, it is 50%, subject to that this owner, whoever it is, should prove to the municipality that he has spent an equal amount in capital improvements on the building to preserve it.

Ms Harrington: It sounds like a novel idea to me. I believe my colleague has a question.

Mr Duignan: Thank you for coming here today and making a presentation. You have offered some suggestions here and we will certainly review them and take a good look at them seriously, because other people making presentations offer similar suggestions, and again I wish to thank you for coming along here today and making your presentation.

Mr Tilson: I get the impression that it is most unlikely that you will be getting into substantial capital improvements of your building if this legislation is passed and if it continues.

Mr Amonsens: That also happens to be my home. I figure that perhaps after four or five years we might get relief, so I am not going to let it deteriorate. I will carry on in the hope that we will see greener days one day, that we will perhaps see more reasonable legislation that could take care of it. I am rather stubborn. I have been at it now for more than 25 years, so I am not going to change for all that, as you probably saw from the letters from the tenants.

Mr Tilson: That gets to my real question. I think it is wonderful that you can receive complimentary letters. However, just listening to you talk, are you likely to get those types of letters if you, and I am saying "you" as a small landlord, perhaps do not improve the building as you normally would under previous legislation?

Mr Amonsens: Of course not. There is no way you could. Fortunately, you know, we have practically no mortgage on the building, having owned it that long. I have more leeway than most landlords. I am one of the privileged few who can do a little more than most can.

Mr Tilson: Of course the government will say you have got lots of money to improve your buildings.

Mr Amonsens: Right. It is my pension funds, and as you have heard lately, a lot of unions complain over pension funds where they use the surplus of them. I find myself in the situation that my pension fund is 40% of what it was 25 years ago. That is the way the government put me in.

The Chair: Thank you for your presentation, sir. Time has expired.

1530

PARC IX TENANTS ASSOCIATION

The Chair: The next presenter is Martin O'Connell. We have 15 minutes for your presentation, Mr O'Connell, and you can reserve some time for questions and answers. I think you have some idea of how it works.

Mr O'Connell: Mr Chair and honourable members, I am speaking as the chair of the Parc IX Tenants Association, 9 Deer Park Crescent in Toronto, whose members are residents of an apartment building of some 93 rental units. I have been here before and some of the points have been covered in the past, but I want to reiterate them.

We thank you for the opportunity to submit views on a specific aspect, and I am touching only on one aspect, of the Rent Control Act, namely, the need to deal with a particular feature ignored in the previous act and ignored in the act now before us. This feature is known as costs no longer borne by the landlord, costs which none the less, because they get embedded in the base rent, constitute a permanent rent increase borne by tenants. Capital expenditures eligible for increases above the guideline are the focus of our submission to you because they will go on being paid year after year in rents long after retired as costs of the landlord.

The practice of continuing to pay increased rents for retired capital costs became established in previous review legislation. To the present government's discredit, it is asking the Legislature to enact once again this patently unfair practice. We as tenants appeal to the committee not to report the hearings until they can recommend amendments to the Legislature.

Paying rent increases for capital costs eligible for increases beyond the guideline when they have in fact been paid off works a cumulative financial hardship on tenants, cumulative because these fixed and unchanging costs of the landlord are escalated by each guideline increase. They never are taken out of the base rent. Future capital costs are piled on top of past capital costs. They grow in size though fixed in amount and in cases paid off.

Costs no longer borne are more than a cumulative financial hardship for tenants; they generate in tenants a sense that the government has loaded the dice against them. Tenants feel a clear and measurable injustice has been imposed on them without a base in reason or equity or common sense, and this by their government. The law has arbitrarily locked them into this inequity. Previous laws did the same. In effect, I think it is not too much to say that the law confiscates tenant income to grossly over-reimburse landlords for fixed amounts of capital costs that the tenants know they will have fully reimbursed at the end of normal amortization periods by rent increases above the guideline.

Repeated repayment cycles in rental units for capital costs no longer borne are the source of another evil. These cycles act as perverse, cumulative, built-in escalators of housing costs generally. This evil is already at work. As amortization periods for large capital expenditures during the 1980s come to an end, rents will not be reduced to make room for new capital expenditures. New expenditure

cycles will fall on top of continuing former ones. The effect is an inflation of rent, induced in part by rent control. It follows that paying in ever-repeating cycles for capital costs that are no longer borne pushes affordable housing ever farther away from people in ever-higher-income brackets.

There are several ways to amend the act to remove the inequity we describe. One way, and perhaps the least effective, is to amend section 23 and add a new section 26.1 to permit a tenant to apply for a rent reduction, which in effect would affect the whole building, when the costs of eligible capital expenditures which were the subject of increases above the guideline have in fact been terminated. In these cases, at the time the rent officer determines the date and maximum rent for each rental unit, which he does in section 20, the officer should be required to identify the eligible capital cost component and determine and order the date and amount of a downward adjustment of the maximum rent when the cost becomes no longer borne.

This is not the best solution because it puts the onus on a tenant to initiate an action which should be automatic and, unless the tenant is advised fully by the ministry of the date and amounts involved, is subject to tenants losing track with the passage of time and to confusion with respect to complex rules.

A better way is to provide for an automatic adjustment of maximum rents when eligible capital costs are no longer borne by the landlord, and dates and amounts are predetermined and notified to both parties. The framework for doing this is there in part I, sections 13 to 29. We trust the will is also there to amend the act to take capital costs no longer borne out of the base rent.

We believe the administrative burden of an automatic system would be much less than that of a tenant application system which requires offices and substantially larger staff across the province. The automatic system is based on straightforward principles and calculations. It can be operated within the rent registry and lends itself to the cost savings of computerization.

At the time of the interim legislation, the Parc IX tenants proposed an amendment to achieve the ends we still pursue. We gained the impression then and after that the government would look seriously at removing this unfair burden on tenants obliged to pay for costs no longer borne. We were dismayed to find that the intention is to continue this perverse practice. We appeal to the committee strongly to recommend its end.

The Chair: Thank you, Mr O'Connell. We have time for questions.

Mr Tilson: I guess the difficulty I have with what you are saying—I understand what you are saying. In other words, you are saying that if you have an increase for a new roof, after that period of time it is amortized to pay for that, perhaps the rent should go back to the way it was before the application is made. I assume that would be a reasonable comparison.

Mr O'Connell: That is right.

Mr Tilson: The difficulty I have with that is that you say it is an evil, and it may or may not be an evil. I have

heard this argument before. Maybe it was even you that made it when you were in Bill 4 hearings. The difficulty I have with it is enforcing it. I foresee a vast bureaucracy, because each individual unit, each individual building, would have to be looked at. In other words, I groan, quite frankly, at the bureaucracy that is going to be created by a rent registration, and by your own admission, there would be more bureaucracy added on to that. Do you fear an increase of bureaucracy with your proposal?

1540

Mr O'Connell: Of course, but I think it can be too readily exaggerated. When you look at the other side, and I distributed a handwritten set of tables, look at the cost to the tenants of not having that bureaucracy in place and the injustice that they feel. It is common sense, if you had an identifiable cost with the roof, that when you have paid it off, it is no longer there, but it is. I think with computerization and the fact that the registry is already there, perhaps capital costs should not ever go into the base rent. Keep a separate account and work them that way.

Ms Poole: Thank you for your presentation, Mr O'Connell. You have again given us some good food for thought.

By the way, I agree with you that it does not need to be a needless bureaucracy. Right now the ministry has on computer every rent review decision, and it would be easy enough to have a file-forward mechanism which would call forward in 10 years those buildings where the capital expenditures had been paid off and to send out notices.

But I wanted to ask you about the fact that in order to do what you want to do with costs no longer borne, they would have to be taken out of the base rents. We had a presentation by the High Park Tenants' Association earlier which suggested that each rent should be broken into three components: First is the landlord's charge for the rental premises, which would be subject to the guideline; second, the municipal taxes, which the landlord would pay but that would go up or down and the increases or decreases would be handled by the tenants through their rent; and the third she has called temporary allowances, such as capital expenditures, finance charges, etc. I asked her about costs no longer borne, whether that is where that would go. It would be a separate charge. So the landlord would break it down, but that would mean that it would be easily taken out.

I have been very confusing, but I hope you understand what I mean.

Mr O'Connell: No, it is okay. I think in answer, if I may say so, it would make sense that wherever there are costs above the guideline, tenants have a right to know what it went for and when it should come out. The other capital expenditures or maintenance within the guideline need not be separated, in my view. It is when you get over the guideline we want to know how it is being handled and we believe it is not handled well.

Ms Harrington: Thank you very much, Mr O'Connell. What you say sounds extremely reasonable and understandable. Unfortunately, our staff are telling us that it is quite complex. There is some mechanism in the

egislation now that when the amortization period is over they will not give another increase for the same type of thing unless the original has been taken out. So the problem is in tracking it for many years. But as Ms Poole mentioned, with computers and that, things may be possible.

I also wanted to go back to what Ms Poole mentioned about having separate charges, one for taxes, one for the premises and one for temporary charges, which is what we are talking about here. That is something that sounded very interesting to me as well that I think we should be looking at.

The one question I have for you is that in your statement you say that tenants have grossly overreimbursed landlords, and another line here is that there has been a cumulative financial hardship on tenants. What would you say to the landlords we have just heard this afternoon and this morning? Were you here for any of the presentations?

Mr O'Connell: Just the last one.

Ms Harrington: They said: "We need money for maintenance. We can't keep these buildings. They're going to be falling down around us."

Mr O'Connell: First I would like to suggest to the committee—I will get to your question; I am coming here—that it ask the ministry to supply it with explanatory tables illustrating what happens in the amortization of capital costs with various examples. I am sorry. The temporary costs, yes, I think should be handled separately.

Ms Harrington: But do you not think the landlords, if you were having a discussion or conversation with them—

Mr O'Connell: I have a very clear conception of what I would say to landlords: Can you defend publicly or in front of the Legislature being paid again for that which you have been paid for? No, they cannot.

The Chair: Thank you for your presentation, Mr O'Connell. Our time for your presentation has expired.

DONALD FOX

The Chair: The next presenter is Donald Fox. We will be following the same procedure, Mr Fox: 15 minutes for your presentation, with questions and answers if we have time.

Mr Fox: My name is Donald Fox of Oshawa. I have a small fourplex there.

Before rent review in 1975 in Ontario, many landlords housed existing tenants in comfortable, carefully and thoughtfully maintained apartments without leases, the reputation of the landlord and tenant being sufficient to cement the relationship. If repairs were required, dialogue developed to the mutual satisfaction of both. Usually rent increases were modest to reflect low property taxes, water, sewer, heat and hydro. Maintenance was simple. A telephone call brought skilled help promptly at modest fees. Some tenants spent their entire adult years under the shelter of caring landlords. Apartments were plentiful. Pride kept the apartments in good repair. Joy kept the landlords working. This well-groomed business was to be the landlord's source of income in retirement years.

What changed this? Why did this working solution have to be controlled by rent review? It is in the landlords'

interests to have good tenants. It is in the tenants' interests to have good landlords. It is in the tenants' interests to have buildings in good repair. It is in the landlords' interests to have buildings in good repair. Capital was preserved. Capital was used conservatively and handed down through the generations. The knowledge and skills of the building trade were handed on down through generations. The nation benefited. Leases were not required. Lawyers were not necessary. Government legislation was not needed. Common sense was the guideline.

Why does adversarial confrontation replace the handshake today? Why cannot trust be our byword? Why cannot honour replace references? Why cannot tenants take the same personal interest in their dwelling as responsible citizens? Why cannot diligence replace government rent regulation? Why cannot co-operation replace lawyers? Why does government legislation have to be so complicated that even with the assistance of four chartered accountants and four graduate lawyers, a working knowledge is difficult to reach?

Shocked am I that retroactive legislation forced some landlords into bankruptcy when they were, in all honesty, following previous legislation of government. Where is justice? During my entire lifetime I have looked toward the Ontario Legislature for fair play and justice. What is to be gained by bankrupting landlords?

To be a competent landlord, one needs to be versed in myriad skills: finance, accounting, electrical, plumbing, carpentry, gardening, cleaning, public relations, roofing, bricklaying, heating, plastering, flooring, interior decorating, painting, sheetmetal work, morality, drainage and paving. How are you going to keep in and attract gifted landlords to this industry with stressful and expensive adversarial confrontation? Today it takes all of one's wits to survive in the marketplace. Skilled help is hard to find. Affordable help is hard to keep. Why compound problems by placing the landlord in a legal straitjacket? Why not congratulate those landlords who achieve meritorious service? Why should this business be so regulated that unsuspecting landlords have insufficient cash flow to compete in the marketplace? Why should our buildings have insufficient cash flow that they look like something the cat dragged in? What is wrong with books showing a profit?

Is not the real problem in Ontario today that development has proceeded without a sufficient tax base to provide services, that work of equal value, OHIP, bilingualism, dual education systems, multiculturalism and an extremely expensive social assistance program are straining the tax system to the limit? One gets the impression that the purpose of rent regulation is to employ the legal profession and a bureaucracy of civil servants. If these professions have affordable rental accommodation as their interest, why do they not volunteer their services to the rental industry? Why cannot tenants volunteer their time, skills and energy to improve their lot?

1550

We are taxed to death. We are overregulated. We face deeply rising taxes and utility costs. We need favourable circumstances to preserve our aging stock. Buildings built in the 1920s and 1930s cannot compete with low-maintenance,

high-rise glass-and-aluminium structures. Will you not preserve our past? Will you not attract our young into an honourable industry? Will you direct our taxes, not into rent review but into housing? Will you not be good stewards of rental accommodation?

Since the age of five I have never stopped going to school. I do not need government regulations to run my building. My eyes, my ears, my hands, my nose, my expertise and my intelligence regulate my building. Why fix something that is not broken? Why place all landlords under this legislation? Many landlords do not need this legislation. Many tenants do not need this legislation.

In 1985, the very best contractor was found to waterproof my building at a cost of \$15,000. This labour-intensive operation would have been a calamity had I not had the foresight to watch with diligence the day-by-day operations to discover that the weeping tiles, which had three tons of newly spread gravel on top of them, were erroneously running up a seven-inch slope. When I drew this to the attention of the contractor, he did not show up. When this was drawn to the attention of the labourers, they argued for two hours that I was wrong, yet my local alderman had witnessed my measurements.

In the spring of 1991, the previously contracted roofer was reluctant to come on my property because the last landlord had gone bankrupt and could not pay him. Yet, in spite of spending months searching for the best available roofer, five nails were left protruding through the shingles and two shingles were torn. This is today's marketplace.

With God's help, please preserve our industry. My health, my wealth, my job and my pension have all been thrown at my building in an effort to save it. Early retirement was forced on me because the strain of working in the community and maintaining my property was too much. My reduced pension is just above survival if my 1983 Rabbit car expenses are kept to a minimum. When I went to the doctor to complain that I was awakened in the night—I screamed for help—he told me the screams were caused by Bill 51.

Mr Tilson: Great speech. I must say that we in our party have asked the same questions. The socialists will respond by saying that you, being a landlord, are letting your buildings run down and you are hoarding vast amounts of money at the expense of the tenants. What is your response to that?

Mr Fox: It is very sad for people to think that way. I grew up in the city of Oshawa and I used to deliver papers from age six up to many of these apartment buildings. They were very, very lovely buildings and today it is sad to see these. Mine does not fit in that category. I have kept mine up. What worries me is who is going to look after it when I am gone. I do not see anybody coming along who will put his heart and soul into it as I have. That worries me because I have fought all my life to hand this on in good repair to the next generation.

In my building it is the handshake that counts. It is not leases. It is not government regulations. If you have something to say you talk it over with the tenant to the mutual satisfaction of both. When a tenant in my back apartment

was hit by the recession, I said, "Why don't you speak to the landlord, and I'm the landlord." He said, "Yes?" and said, "Your rent is reduced immediately," and that is all there was to it.

Ms Harrington: It certainly sounds as if we need a lot more people like you around who are willing to deal fairly and honestly with people and face to face. Unfortunately that has not been the case and that is why there is this legislation. As you say, you were awakened in the night because of Bill 51. I am sure lots of tenants were too. We are trying to get a fair legislation in place which can enable landlords to make a fair profit and living from their industry and which entitles tenants to have a living with respect. That is what we are trying to aim for here.

Mr Fox: Thank you. In our building we try to have family values. We try to operate like one family under the same roof. That is my goal.

ARLINGTON PARK ESTATES (1989) LTD

Mr Hacohen: My name is Joseph Hacohen. I am representing the owners of an apartment building in Mississauga. The purpose of my coming here is to show the committee, members of Parliament and the public the hardships we suffer as a result of Bill 4 and the continued suffering as a result of Bill 121, which has been introduced.

I will briefly tell you the story of this building, the current situation and what the future extends for us. We bought the building in 1989. It is an 8-unit apartment building. It was planned that this would be a long-term investment. Funds were used out of the equity on homes of the owners, pensions and purely as an investment.

Prior to purchasing the building we checked the income on the property. Rents were extremely low at the time, which was good. We based our income on a letter which was sent from the government, showing the rents charged to the tenants were legal. After purchasing the building we applied for a rent increase, and we were surprised when we received a letter from the government that an error had been made and that the rent charged is an illegal rent. There are some legal complications because of that which may take many years to recover. However, we suffer further losses now, as we had to pay back rents to the tenants because the legal rent became illegal.

Our income has been reduced by 10%. We have received an order from the government to repay the rents and we have received an order which gave us 5% phase-in on top of the guidelines for the next few years. We have received two phase-ins. One was implemented and the second one was voided and cancelled because of Bill 4.

During the period of Bill 4, we have been promised by the government that there will be a new, fair legislation for the tenants and for the landlords. In our case, and I presume in many of the landlords' cases, the guidelines do not even cover the raise in expenses. I am not even talking about capital expenditures; I am just talking about paying the bills.

As far as the future for our case, it is very simple. In the new government of Ontario, if it will get its way, there will be no future for us. We have made a good business decision; we have consulted lawyers; we have consulted

accountants but, due to an error made by the government the first time, we are suffering losses. Then with the new laws that are coming in, we will never be able even to cover our expenses. I am not discussing the possibility of making money. That seems to be unacceptable these days.

We hope the government will consider the possibility of allowing financial losses. In our specific case there are tenants who are paying under \$300 a month in rents. This is unheard-of. Our costs are much higher than the rents and we are not charging high amounts to the tenants.

Many of our tenants have told us that living in our building is like living for free. Our average rent in the building is \$450. Our costs are \$650 per suite. I would like to know, if I offered to sell any member of this committee a \$100 bill for \$66, whether they would refuse it. I do not think so.

1600

We have a suggestion that we have mentioned on many occasions in front of committees and in letters to the Minister of Housing, that in cases where the rent charged is below market value or it has followed depressed trends, an adjustment should be made. We have suggested that upon a tenant vacating his apartment, a new market level approach would be used and the new tenants would be charged the market value. In this way the old tenant does not suffer, and the new tenant would be expected to pay market rents, as the tenant would expect, to begin with. Considering the vacancy rates these days, no landlord will overcharge. Therefore, if the market level is charged, it will be a reasonable one.

In conclusion, I am only asking for a specific area provision for financial loss where market level rents are much higher than the rent charged. Many of our tenants have even agreed to pay higher rents, as long as all of them will pay it. Some tenants came along and said: "We are paying under \$300 a month. We will pay you more. We know we can cover your expenses."

In our case, I do not think we will be able to hold the building for much longer. Our mortgage is coming up for renewal in 1992. No institution will give us a new mortgage. The institutions will have to take over. They will not even be able to sell the building for the price of the mortgages. It seems the situation is hopeless. The only hope we have is that the government will consider a provision for the area we have requested.

By this time next year, if the government gets its way, we will not own the building. That may not interfere with the life of the NDP government; however, it will destroy the lives of a few families. Some members of the families have suggested that if the building goes, we go with the building. Maybe we will give the government a show and I will end my debt. The only thing I will say is that I hope we will not have to get to that situation.

Ms Harrington: I think you have tried to explain a lot about the situation, but could you very briefly say how you got into this kind of mess?

Mr Hacohen: Very simply it was a pure business decision. We purchased a building based on income. Because

of the government, their income has been reduced by 10%, which is very major.

Ms Harrington: You said the income was reduced by 10%?

Mr Hacohen: Yes. We purchased a building based on a letter sent from the Minister of Housing showing us all rents were legal. Then the government came in and said, "Sorry, we have made a mistake." This mistake is costing us money.

Ms Harrington: I wonder if the people from the ministry would like to comment on this particular situation.

Mr Hacohen: There is a saying in law—

The Chair: Is there anyone from the ministry who can comment on this, please?

Ms Parrish: I am sorry. I am not personally familiar with this property. We will have to look into it further. I am not familiar with the situation at this time.

The Chair: Can I ask a question? If the gentleman has information on ministry letterhead that gives him certain specific information and he makes a business decision on that, and then we find out that the information on the ministry letterhead is incorrect, is the ministry not somewhat responsible?

Ms Parrish: I really cannot comment on a hypothetical question. I have to look at the actual situation. I would also say that I am not disbelieving this gentleman by any means; I am just saying I cannot comment on a situation I do not know anything about.

I would say that there have been instances where the ministry has been sued in the past related to rent levels filed in the registry. As you can appreciate, if this is one of these cases, I do not think it is appropriate that I should be commenting if it is before the courts. I can only undertake to look into the matter, sir.

Mr Mammoliti: Just a note for the record: I am certainly concerned about this particular case. I would like to find out as much as possible as well. I will be looking forward—

Mr Hacohen: I thought I have given you the information in the past.

Mr Mammoliti: If the ministry has given you a letter, I would certainly like to find out more about it myself. I am looking forward to the ministry giving us the information.

Mr Tilson: I too am disturbed. I do recall your coming to my office and explaining it. I assume you have also told other members of the legislature your problem. I quite agree with the remarks of other members that if there has been an error made, hopefully an exception to the rule will be made. I guess you have gone one step further and I appreciate your offer of a suggestion.

You certainly have your own personal story to tell and I am disturbed by some of your latter remarks. I hope I did not interpret them incorrectly, but I find that really disturbs me. However, on the whole subject of chronically depressed rents, there has been no initiative by the government to bring up rents such as yours. No tenant in his right mind is ever going to leave your building. That is the sad part of it. You have offered one solution. That might work,

but I doubt if it would because it would pay tenants to stay there.

Mr Hacohen: It has been used in the United States, specifically in New York. When a tenant moves out, the new tenant will pay market value.

Mr Tilson: A subtenant would or would not be allowed?

Mr Hacohen: A subtenant is a new tenant.

Mr Tilson: A subtenant is a new tenant. I hope this committee does not allow this issue to die. The whole subject of chronically depressed rents is one subject, but surely now that this matter has been drawn to our attention—obviously the government, the parliamentary assistant has expressed an interest, and hopefully she will pursue it with this committee.

Mr Hacohen: I have mentioned this subject in front of previous committees and they have been very sympathetic towards this idea, but I have never seen it anywhere. It is never raised in Parliament, never raised in Bill 4 or Bill 121, nowhere.

Mr Brown: I obviously am also concerned. I would like to suggest that the ministry provide the committee with a response some time during the next hearings week. In that way, we put some pressure on the ministry to respond within a reasonable time frame. I hope they could do that and respond to the committee so that we would have the full facts, and if necessary we could hear it in camera if it is a problem.

I am new to rent control, at least I was before Bill 4, and one of the things that strikes me is that rent control is about rates, about increases. It has nothing whatever to do with value, zero, nothing, nada. It has to do with how much percentage increase you have, but it does not have anything to do with what the accommodation is worth. I think you are a case in point. Could you tell me, within your building, is there rent equalization? Do the same units get the same rent or is there a problem with that also?

Mr Hacohen: It is not a problem; it is a joke. I have tenants paying for one-bedroom more than tenants are paying for two-bedrooms. In reality, most of my one-bedrooms are higher than the two-bedrooms. You tell me the logic in that.

Mr Brown: You would suggest that the government address that issue in this bill.

Mr Hacohen: They should.

Mr Brown: I think that they should too.

Mr Hacohen: I have made many requests to the government. I have written many letters to the Minister of Housing. Yes, he replied: "I received your letter. Thank you." But he has never addressed any of the issues I have discussed with him; not even one.

Mr Brown: At some point, I would really like from the government an explanation why rent equalization, which is revenue-neutral, is not being addressed in this legislation. It is patently absurd for the government not to address that issue.

Mr Hacohen: I have one last comment, if it is possible. With regard to Mr Tilson's remark, we feel, as the

owners, absolutely hopeless. We are being stabbed in the back, stabbed in the front, stabbed on the sides. If we have to do something drastic, we might have to do it. What else would you do? If you were in our shoes, and you were going to lose your lifetime's savings, which includes your family's, your grandfather's, everybody's lifetime savings, what would you do? I would like to know.

1610

JEANNE BERGER

The Chair: The next presenter is Jeanne Berger. You have 15 minutes for your presentation, and you can withhold some time for questions.

Ms Berger: My presentation today to this standing committee on general government relates to Bill 121, Rent Control Act, and its flaws, vagaries and inadequacies. I voted for the NDP based on its election platform regarding rent control, only to discover that after the election the said bill was revised, undoubtedly due to pressure from landlords. I am here as a tenant, and on behalf of the other tenants of 11 Shallmar Boulevard, who are already paying a 100% rent increase in the last four years since our present landlord, Beaux Properties International, bought this building. I realize he obtained these exorbitant increases in the Liberal government period, but your bill will allow a maximum increase of 25% over the next three years. Tenants simply cannot afford this.

First, I wish to know from you, and I quote from Zana Akande's, my MPP's, letter of June 1991, "Landlord will be provided with enough money to ensure their buildings are maintained," from where is this money coming? Second, even with a 100% increase my building is deteriorating rapidly and so I note Ms Akande's paragraph "...the need to prevent landlords from allowing their buildings to deteriorate, and that is why the bill contains provisions that will make sure buildings get the repair they need, and further, if any work order exists against a building, the rents will not be allowed to increase at all, not even by the guideline."

A magnanimous statement considering we have work orders that took six months to complete in our building. Also in this vein, Dave Cooke, in his recent publication mentions stricter penalties for owners who ignore work orders. What are these penalties? How in God's name are you going to police and enforce all of the above when anyone connected with rent control and/or review and appeal takes for ever to render a decision? A point in fact. Just yesterday, August 6, 1991, we, the tenants at 11 Shallmar Boulevard, received a Mrs Stanwick's decision on our dispute and appeal held on December 13, 1990. A mere eight months of waiting, and then of course in the landlord's favour.

Third, Ms Akande states, "Tenants are protected against landlords doing unnecessary renovations." How are we protected? He does not exactly ask for our permission.

Fourth, another question arises from the Ministry of Housing. Their newsletter prints, "If a landlord applies for a larger increase than guideline, the ministry considers if there has been an increase or decrease in the cost of loans or mortgages." Most landlords have accountants and lawyers

who are expertly versed in loopholes to hide any and all necessary facts.

I reiterate, is your government and bill competent enough to enforce your well-intended changes and give us a rent system we can count on? Ms Gigantes, I wish you luck, and in turn, we tenants.

Ms Poole: Thank you for your comments. I would like to follow up on one of the comments you made about the work orders and the difficulty in enforcing them. You live in the city of Toronto. How have you seen the inspectors dealing with work orders? Do you find they are fairly prompt in coming to review the work and putting—

Ms Berger: The inspectors are prompt in coming. The superintendent and the landlord are very unprompt in doing anything. I have a letter with me on one in particular. It took six months for this particular work order to be complied with.

Ms Poole: The complaint I have had from city of Toronto inspectors, from the couple I have talked to, is that they say they do not have enough power of enforcement themselves, that the landlord might even deny them access to see certain things, and it is difficult for them. Have you or your tenants' association had any problem with this type of thing, where the inspectors themselves are saying they do not have the powers they would like to enforce?

Ms Berger: Never. The health inspector has been out there probably just as recently as last week. He told the super and I guess the super just laughed it off or whatever.

Ms Poole: Would you like to see province-wide minimum standards that the municipalities are obligated to enforce?

Ms Berger: Minimum standards of what?

Ms Poole: For maintenance of the buildings.

Ms Berger: Minimum? Of course not. I would like to see maximum.

Ms Poole: I guess that is the thing everybody would like to see, maximum application, but we are saying that municipalities at least have to follow certain rules. Right now it is the onus of every municipality to set its own bylaws and standards, so some municipalities are more strict than others.

Ms Berger: I think it should be universal, if that is what you are asking me. I am just a tenant who is so fed up with this whole system, but I do not know the ins and outs of all this political mayhem.

Ms Poole: All you know is that you are not getting action?

Ms Berger: You got it, and I think you have to do something. This is ridiculous: 100% in four years. I have the figures to back it up.

Ms Poole: Yours is an older building, is it not?

Ms Berger: It is approximately 30 years old, but there was a new landlord in April 1987.

Ms Harrington: Thank you for coming, Ms Berger. Have you had a chance this afternoon to be with us a little and listen to the previous presenter?

Ms Berger: Unfortunately not. I had to leave my children to come here, in order to pay my 100% increased rent.

Ms Harrington: I understand fully. It would certainly be a wonderful experience for everyone to sit through the afternoon and hear exactly what the landlords have to say.

Ms Berger: But no one forced them to buy the buildings to begin with.

Ms Harrington: We understand. The message that is coming through loud and clear is that you are totally fed up with the system and what is needed is some kind of working relationship between tenants and the owners of their buildings and the government, so that we are all in this together. You want a meaningful, significant change, and that is why we are here, to bring that about.

It is very difficult, let me tell you. If you had heard the person just before you, you would understand they are saying, "How can we run this building? We are not getting the increases," and they are very genuine about it. We have to take into account your point of view and their point of view, and make sure that maintenance is enforced, that these buildings are kept in good condition. Exactly what Ms Akande has said in her mailout to you is what we are trying to do. Maintenance: What else were you concerned about in her letter?

Ms Berger: Where is the money coming from that the landlords are going to be provided with to ensure their buildings are maintained? Where is that coming from? My taxes, your taxes?

Ms Harrington: In the legislation, we have said there is 2% within the guideline amount each year for capital repairs, and certain things which are extraordinary operating costs or an increase in taxes, this type of thing, can be an additional 3%. The reality is that we are saying let's have good maintenance and have a cap at a total of around 8%. That is where the money is coming from.

Ms Berger: But how are you going to enforce all these penalties you people write about in your various publications? How are you going to do all that? I just finished telling you that it took—

Ms Harrington: I really do not think it has been seriously attempted before, and we are going to do it. If we cannot do it, then no one can.

Ms Berger: As I said to you, it took eight months for this last appeal. I could have had—never mind.

The Chair: I have a couple of short questions, as we have an extra minute or two. You mentioned that building was awarded a 100% increase.

Ms Berger: Yes. I have the figures.

The Chair: That is over a three-year period?

Ms Berger: Four.

The Chair: Over a four-year period. Are there average rents or are the rents in every unit—

Ms Berger: They were average. When he bought the building in April 1987, I was paying approximately \$425. It is now up to \$805.

The Chair: So it has gone from \$425 to \$805. What kind of unit is that?

Ms Berger: One-bedroom.

The Chair: Are there two-bedroom and three-bedroom units?

Ms Berger: Two-bedrooms are up to about \$900. There are no three-bedrooms. There are only 78 units in the building.

The Chair: Out of curiosity, are there other buildings in the near vicinity?

Ms Berger: Yes. The whole street is apartments, Shallmar Boulevard running from Bathurst to Mayfair; there are at least seven apartment buildings on that block.

The Chair: Have other buildings in the near vicinity—

Ms Berger: Not like that.

The Chair: They have not had increases like that.

Ms Berger: No way.

The Chair: Are the rents, similar in your building to the other buildings? Would you consider them to be similar?

Ms Berger: I would say ours is higher, considering that the one next door to us is exactly the same. It is not in that category. The one to the right of us is more luxurious and it is less money. But everybody has a different landlord.

The Chair: I could not quite understand earlier. Do you think this dramatic increase came about because there was a change in the ownership? Is that what happened?

Ms Berger: In 1987 Roy Birnboim, Beaux Properties International, bought the building.

The Chair: Had there been a change in ownership previously?

Ms Berger: Yes, but it was always okay. It went from Cadillac to Metropolitan Trust or whatever. I have been there about 25 years. I have been through more supers than I can count.

The Chair: Have you seen any discernible increase in the quality of the building?

Ms Berger: It has right down. We phone the landlord every day that the smell is like some River Street tenement, from the garbage. The super thinks it is all very funny. There is lots of deterioration. I could go on. I could give it to you in detail, but I do not know whether you have the time.

The Chair: I think you have explained it very well. Thank you for your presentation.

Ms Berger: You are welcome.

1620

MATTHEW ROCK

The Chair: The next presenter is Matt Rock. We will be following the same procedure, Mr Rock. I noted that you were watching. You have about 15 minutes, and that includes questions.

Mr Rock: My name is Matthew Rock. I would like to thank you for the opportunity to speak here today. I am very proud of what I do. Six years ago I purchased a small, six-unit apartment building in Whitby. The building was not well managed or cared for at the time. My wife and I

moved into the building and began looking after all the management and maintenance ourselves, as we could not afford to pay other people to do this work for us.

We totally renovated all the units inside and out, relandscaped the exterior of the building, built new balconies, put new soffits and fascias on the building, etc. Prior to doing all of this work there were lots of complaints from the neighbours about the building and the quality of tenants. After doing all this work we were granted a modest rent increase above the guideline. The tenants were quite happy to pay the increase, as they had benefited from the improvements. Also, the neighbours as they walked by would stop and congratulate us on what a fine job we had done. We are very proud to do this improvement to our community. All we were trying to do was provide our tenants with a good accommodation for a reasonable return on our long-term investment, which, by the way, has taken six years just to get to a break-even point, and also to improve the community. We are proud of what we have accomplished through our hard work and sacrifice and dedication.

Purchasing the six-unit building was no short-term investment. We want to provide future security for ourselves and for our children. We did not want to depend on other people or the government to take care of us in our old age.

In October 1989 we started working on the purchase of a 30-year-old building in the northwest Oshawa area, consisting of 11 two-bedroom apartments. This building again required some work and proper management, which we knew we could do over a period of time. We purchased the building for \$60,000 per unit, totaling \$660,000, a very reasonable price compared to what the government spends on housing, which I understand is around \$150,000 per unit. The rents in this building are very depressed and range from \$356 monthly to \$422 monthly, averaging \$409 per month.

The building was taken to rent review and was allowed a modest increase of 5% on top of the guideline for financial loss, which would take 10 years just to get to a break-even position. We knew this was a long-term investment and wanted to do the same procedure on this building in Oshawa as we had done before on the six-unit building, and knew we would be able to accomplish this with the legislation which was in place prior to the NDP.

The tenants agreed that they did not mind paying a 5% increase above the guideline to enable improvements to be made to the property, and they realized that the upkeep of the building could not be maintained with such a low income coming in to support the building. The rents have been frozen with only the guideline increase of 5.4% allowed, as the NDP has taken away the phase-in of 5% on top of the guideline which was lawfully granted by the previous government. The rents now range from \$411 monthly to \$492 monthly, averaging \$472 a month in the building.

The average rent in Oshawa for a bachelor unit is \$48 and a one-bedroom average price in Oshawa is \$54 monthly. A two-bedroom average in Oshawa is \$60 monthly. So you can see we are well below the average rent, by \$135 for a two-bedroom unit in the Oshawa area.

We remortgaged our other property to put down 25% on the purchase of this building, which was \$165,000 plus closing costs of almost \$20,000. The building has a 75% first mortgage of \$495,000 at a high interest rate of 14% because of it being a high-ratio mortgage with low income. After mortgage expenses, taxes, heat, hydro, maintenance, insurance and management of the building are taken away from the monthly income, we are losing over \$4,000 per month on the average. If we are not able to recapture this loss over a period of time, we will never be able to maintain or improve the property and we will lose the property or go bankrupt in the process.

I trusted the government; I even work for a company that financially supports the NDP government from the union dues I pay. I believed they were for working-class people, but now I know they are not to be trusted as they want to force people out of Ontario or have them all on welfare.

I am a fighter. I work two jobs plus manage and try to maintain my investments. I am only getting three hours' sleep per day on the average and have no family life or relaxation time. If this keeps up, I will lose everything, including my family.

If I sign a contract and later change my mind or any terms of the contract, I would quite likely be fined heavily or punished or even sent to jail, but the government seems to be able to do as it pleases, with no consideration for the hardships its unrealistic ideas place on hardworking people of this province.

The government seems to be unaccountable for its actions no matter how devastating their effect. If you wanted to bring in new rules, you should not have forced them retroactively on people who were going by the rules that were in place prior to the NDP government. I see no allowance in Bill 121 for these people. How do you think we can survive with this legislation? It will not help the tenants who need the help; it will only protect the tenants who do not need the protection. A lot of tenants live better and make more money than their landlords do, and they are tenants because they want to be tenants; they do not want to be bothered cutting grass or maintaining a home.

Bill 121 says you can get a 3% increase above the guideline for capital expenditures. On my building in Oshawa, that would only be approximately \$14 per month or approximately \$170 per year. What can you improve or repair on an apartment building just with this amount of money? The tradesman costs \$40 to \$50 per hour just for wages without materials. Tell me, how do you expect me to survive? I have had this building for sale for a few months, as soon as I realized how dangerous Bill 121 would be, at a reduced price and even with allowing a vendor-takeback mortgage with no payments and no interest. If I am able to sell this property I will probably lose more than \$300,000, which will put me into bankruptcy.

Bill 121 is an open invitation for tenants to beat up on their landlords. For example, the harassment charge is totally ridiculous, as it will serve to drive a wedge between the landlords and their tenants and there is no protection for the landlord against the unscrupulous tenant. Also, letting the tenants dictate to the landlord what repairs or im-

provements should be done when they have no qualifications, no ownership in the building and no obligation to stay on in the building as a tenant—what right do they have to make long-term decisions that will affect generations of tenants to come?

The item dealing with inadequate maintenance leaves the door wide open for the unscrupulous tenant to claim inadequate maintenance for just about anything to get a rent reduction. What is the definition of "inadequate maintenance" anyway? Could it be defined as a simple little thing such as a lightbulb needing changing?

The item classifying our building as a large building receiving reduced guideline increases further penalizes us and causes us further financial hardship, making the system even more confusing for tenants and landlords. When a landlord makes an application for a rent increase under Bill 121, he runs the risk of receiving a rent decrease because of the vagueness of the legislation. The complicated legislation of Bill 121 makes it necessary to hire professionals just to understand whether you will get an increase or a decrease, further adding to the financial loss.

Why should tenants be protected from GST? We have to pay GST on everything we buy, including the utilities. Home owners are not exempted from GST either, nor is anyone else, so why should tenants be treated so royally?

It would be a lot cheaper for the government to subsidize the tenants who require assistance and let the market look after itself. Supply and demand would set the price, and if the landlord did not keep his building maintained, it would sit vacant. The shortage of housing would be solved if you got rid of rent controls completely.

I am pleading with you to please reconsider and make these changes to the Bill 121 legislation, not just because I have a specific interest here, but because I sincerely believe that this government and legislation will breed a society of people who cannot think or do anything for themselves and it will be sure to break the spirits of those who have tried to better themselves, only to be slapped in the face. Is this the kind of society we all want? Thank you for your time.

1630

Mr Winninger: You certainly covered a lot of points in your presentation, and we only have time to deal with a few here today. You indicated that when you purchased your second building, you anticipated a 5% increase above the guideline to enable improvements to be made. Is that correct?

Mr Rock: That is correct.

Mr Winninger: I hope you understand that under Bill 121, if you can tie those improvements to the criteria for capital improvements where they are necessary for the building, you can pass that through to a cap of 3% and then another 3% in the second year, which would mean you could get up to 6% in addition to the guideline over the two years, which would exceed your expectation when you purchased this property. I do not see how Bill 121 would prevent or deter you from carrying through on the capital improvements.

I think, though, that your second argument related to financial loss, did it not, where you are paying a 14% mortgage and you are concerned you would not be able to pass through those financing costs? You do not indicate in the earlier part of your presentation that you were looking for more than a 5% increase over guideline. I do not see how this legislation prevents that from happening if you can justify your capital improvements.

Mr Rock: You are saying that you can get 6% over two years. From my understanding, you have to spend at least 10% just to get the 6%. I was at a meeting with a lawyer the other day and he told me that we have to spend at least 10% to get the 6%, which is 3% each year, and then they can claim that there is inadequate maintenance and the increase may be disqualified and rent rolled back even farther; you get 0% or less, even. The 5% was very modest increases above the guideline. My rents are so depressed to start with, in the area a bachelor unit rents for more than what my building renews rents for. So how do they expect me to do anything? The tenants were even asking me, "Why are they even rolling rents back on the building?" They want the building fixed up, and how can I do it if they are not going to allow me to pass through anything on it?

Mr Winninger: All I can say is there is a provision for pass-through.

Mr Rock: And it is so vague it can be easily—we counted on 5% above the guideline at least per year, and you are saying we can only get 3%, and then they will probably erode that away—

Mr Winninger: I am sorry to interrupt. How many consecutive years did you expect to get 5% above the guideline?

Mr Rock: There is a sheet attachment showing what the rent review had ordered and the pass-through. It would take up to 10 years just to get to a break-even position with the financial loss.

Mr Winninger: So you were going to increase the rent each year by guideline plus 5%.

Mr Rock: It was taken to rent review and ordered a 5% phase-in above the guideline until financial break-even point, and that would take 10 years to do that. In the meantime, we were going to fix up the building by doing some capital expenditures the second and third year. Our plan was to bring it back up to the standard it should have been. The tenants wanted it fixed up, and it would have been good for the community, the tenants would have won; everybody would have won. We were doing it long term. We were not doing a short-term flip or anything. We plan on holding on to the property for years and years, 15, 20, 30 years type of thing.

Mr Winninger: How would your tenants be expected to afford cumulative increases of 10% a year?

Mr Rock: What I am showing you here is that some of the rents there now are just barely breaking the \$400 mark. The average rent in Oshawa for a two-bedroom apartment is \$607 right now.

Mr Winninger: You do realize, though, that the cumulative effect of a 10% increase, let's say, each year is rather awesome for the tenant who is going to see his rent double over the next six or seven years. How many tenants can afford that?

Mr Rock: That is right, and that money was all going to be put back into the building in capital expenditure repairs.

Mr Winninger: Which you recover when you sell it.

The Chair: Thank you. I am sorry; we cannot allow any more questions. Mr Sola.

Mr Sola: Thank you for your presentation, sir, and you are about the third or fourth person who has come up with a similar horror story regarding Bill 121 today. As you have stated, you are a fighter, and it is a good thing we have people like that who will come before the committee to try and get some changes made to this legislation.

The other thing you are complaining about it is the retroactivity, and that again has been a repeated theme of most people who have had problems with this legislation.

Another thing is that there is no accommodation for depressed rents. As you say, in your building you are below the norm, yet there is no way you could recoup the investment you are making in the building to upgrade it.

You seem to have a harangue about what Bill 121 will do in regard to your relations with your tenants. Have you had any problems with your tenants up to this point in either building?

Mr Rock: No, we have always had really good working relations with our tenants, because we treat them as human beings and we try to do our best to serve them and fix and repair anything we can, but on this building now we cannot do anything. Our expenses are going up faster than our rental income is increasing now, and there is no way we are going to be able to do the things we need to do on this building and it is going to further deteriorate.

Mr Sola: Have your tenants, since the introduction of Bill 121, changed their attitude towards you?

Mr Rock: No.

Mr Tilson: Mr Winninger made some comment which I believe, with all due respect to him, were quite simplified, because what he failed to say is that if you make application for percentage increases for capital expenditures, you run the risk of tenants, or others, making applications, for various reasons, to have your rent decreased because of some other factor. Landlord after landlord is telling me, at least, privately and at this hearing that they have no intention of making capital expenditures that what they will do is whatever maintenance is necessary to fight off the work order people and preclude them from being shut down, but they will take no initiative. Someone gave the example of a security system and those types of things that normally they would get into, which tenants want, but they are not going to do that. Are you one of those landlords?

Mr Rock: There is no way I can do any capital expenditures, because I am putting all my money into this building. I do not even earn enough money to make the payments on my negative cash flow on this property. The

s why I am working two jobs just trying to survive, and I have my place financed for extra money to allow me some extra cash flow if I have to use that, and it is eroding away very, very fast at that. So all I can do is try to maintain things that I have to, to keep the work orders away, at this point. As I say, I have had the building on the market for sale for months now, and if I am lucky enough to sell it, it is going to be probably at a 40% reduction in price, and I will go bankrupt from that.

Mr Tilson: Of course, we have had witness after witness say to us: "Who's going to buy it? Why would anybody buy such a venture? The worst investment in this province."

Mr Rock: That is right.

Mr B. Murdoch: The government is going to buy it.

The Chair: The time has expired for your presentation, Mr Rock. Thank you for coming.

1640

SANDYCOVE ACRES HOME OWNERS' ASSOCIATION

The Chair: The last presenter for the day is Sandycove Acres. We will be following the same procedure, 15 minutes. If we have time left over from your formal presentation, we will have questions and answers.

Ms Lea: I would like to introduce my support member, Mr John Marshall, who is treasurer of the Sandycove Acres Home Owners' Association.

Our association was incorporated in 1977 as the collective voice of the residents and home owners of the Sandycove Acres planned retirement community. Currently we represent over 2,000 mostly senior home owners in about 1,150 permanently located modular or individually site-built homes in this largely self-contained community in a rural setting in the town of Innisfil. Services and recreational and social facilities are provided and maintained by the developer, Sandycove Acres Ltd, as part of the long-term leases for the sites for the individually owned homes. The first homes were purchased and occupied in 1971, with steady growth over the years to the present, with only about 15 final homes to be completed and sold. Attached as part of our background submission is a copy of a booklet describing the community and its social and recreational aspects.

This community was essentially the first planned retirement community in Ontario and is seen by the residents as a very suitable and satisfactory form of lifestyle accommodation for independent, socially active seniors or near seniors. The municipality clearly sees our community as a valuable asset, and with many of our residents having moved from Ontario urban centres on retirement, the housing squeeze in those cities has been eased.

Our comments and concerns with Bill 121 are in two general areas, namely: matters related to our situation that are not referred to or included in the proposed bill but which in our view should be covered in legislation; and specifics included in Bill 121 which we believe inadequately provide for our situation.

Bill 4 of April 1991, amending the 1986 Residential Rent Regulations Act, subsection 1(2), very clearly estab-

lishes that a rented site for a single-family dwelling is included. This confirms the pattern that had been established some years ago by administrative decision. This also clearly confirms the present legislative grouping of our type of community developments, planned retirement communities, in with mobile home parks as they exist in their various forms across the province.

We believe that this unfortunate grouping is one of the key difficulties in making appropriate provisions in a variety of legislative contexts, including Bill 121, for our type of community. Further reference to this key point will be made under the next heading.

Aspects not covered: The February 1991 consultation paper from the Minister of Housing on Rent Control Issues and Options on page 68 says, "While coverage of these communities under rent control will be continued, it was thought better to wait until the interministerial committee's report is prepared prior to moving further into the reforms needed in this area."

We submitted comments on the green paper to the minister in March and we make two comments now:

(a) This interministerial committee was established to fulfil the House resolution 6 of May 11, 1989, moved by Bruce Owen, former Liberal member for Simcoe Centre, and we quote: "that in the opinion of this House, recognizing the unique nature of owned-home leased-lot retirement communities, the government of Ontario should undertake a review of these communities that would include: the apportionment of common amenities and services; tenure arrangements, including leaseholds, life leases and condominiums; verification of maintenance and operating expenditures; contractual restriction on the right of resale of units; the absence of fiduciary regulation; the registrability of leases and the role of rent regulation for these communities."

The resolution passed unanimously. As far as we can determine, the committee report is still not available, although originally scheduled for the end of 1990. We view this report as critical and anticipate that it will recommend a variety of legislative changes.

Indicative of this, although clearly only exploratory, is the report from the legislative research service prepared for Gordon Mills, MPP, Durham East, November 1990. This report outlines a series of problem areas and possible actions related to a number of statutes.

(b) This interministerial committee was charged with looking at both mobile home parks and land-lease communities. We prefer the Ministry of Municipal Affairs' term of "planned retirement communities." The original House resolution did not call for this combined examination, and this combination review is an example of the general tendency referred to in our previous section to group together in legislation these two quite different community types.

As a specific item not included, we note that there is no rent equalization feature in this draft bill. While this is perhaps more logically a landlord concern, we note, and have no real suggestions to offer, that in our situation the current maximum rents for identical facilities and services vary widely as a function solely of the market level of land rents at the time of the original lease.

Specific Bill 121 items: Although the primary thrust of our submission is that Bill 121 fails to address many key aspects of the concerns related to our planned retirement communities pending the availability of the report from the interministerial committee, as discussed earlier, we do wish to point out some specifics.

Section 1, applicability: We note and endorse simply as a matter of uniformity the proposed inclusion in this act of those home sites previously exempt by virtue of original lessee occupancy date.

Subsections 3(5) and 3(6), new units: It would appear from clause 3(5)(b) that the landlord is being given the option on a new unit of having it free of regulation for a five-year period providing the tenant is given proper notice. This option would seem undesirable for planned retirement communities if only in the interests of consistency.

Subsections 12(1) and 12(2), rent control guidelines: While the philosophy of establishing rent control guidelines to recognize typical landlord cost increases makes sense, we submit that the normal component formulae should not apply where the landlord-paid components differ significantly from the norm. In our situation the landlord utility costs are only incidental—the recreation buildings only—and realty tax escalations are limited to common use land only, not the home sites themselves nor the recreation structures. Certainly the landlord's costs—maintenance staff, etc—will increase, but the increase is minuscule compared to the rent levels involved.

1650

Gross rent for the total residential component of the park, including land rent, common property tax escalation and maintenance and operating expense recovery, we estimate to be in the area of \$4 million a year in 1991, including those homes not currently under rent control. We do not have access to precise figures.

In terms of the maintenance and operating cost incremental increase, we submit that the proper application of this component requires that it be based solely on the level of the related costs—maintenance and operating expenses and common property realty tax escalation—excluding the basic land rent component.

The audited statement of maintenance and operating expense, net of items not really related to maintenance and operating costs, a copy of which is attached, shows 1989 as \$1,045,179 and 1990 as \$1,133,419. On a per home basis, to take out the growth component, these are, 1989, \$928.22 and 1990, \$993.35. We estimate the common property realty tax component as \$120 per home per year for 1989 and 1990. As can be seen, this expense base, for application of routine operating cost increases is less than one third of the total rent base that the draft legislation contemplates.

Paragraph 12(1)4: capital expense increment. Similarly, the 2% increment in the guideline for capital expenditures may well be appropriate for rental buildings, but it appears excessive when the landlord does not own nor maintain the actual residential buildings. In our situation, the landlord's capital costs are related solely to the recreation facilities and the common services equipment and

installations. In the past, there have been differences of opinion between ourselves and our landlord regarding the proper classification of expense as operating versus capital. In any case, the 2% of gross rent compounded annually substantially exceeds the capital costs involved on a continuing basis in our situation.

Historically, the rent levels have allowed, in our type of community, for recovery of capital replacement or improvement expense. Even the major road repair project of about three years ago represents only about \$35,000 per year when amortized over the supposed seven-year life of the rebuilt roads. Yet the 2% automatic capital cost increment would produce about \$80,000 per year of landlord income. We submit that capital improvements done in recent years, such as work on the three recreation centres quoted in the still-pending 1987 rent increase application are in fact much less in dollars than the logical improvement in facilities that should be expected as the capital share improvements related to the growth in the park over the nine-year period since the prior facilities improvement in 1982.

We believe that there should be no automatic capital cost increment in the rent formulae for our type of—

The Chair: Order. You have used up your 15 minutes so what I need now is consensus from the committee to extend your time. I think we will be able to do it, because you are the last presenter of the day. Under normal circumstances, I do not think we would be able to do this. We also need consensus to allow at least one question per party. Can we proceed on that basis? Please continue.

Ms Lea: Thank you. We believe that there should be no automatic capital cost increment in the rent formulae for our type of community. Failing that, as a reasonable compromise, we suggest that the capital cost component for our type of community be calculated on the basis of maintenance and operating and realty tax expense as outlined above.

On behalf of Sandycove Acres Home Owners' Association, we wish to thank you for your attention.

Ms Poole: Your presentation has made it very clear that there are major differences in the way we have to look at—now, I have got to get this name right. We are no longer calling them mobile homes. We are calling them owned homes, leased land?

Ms Lea: Leased lot.

Ms Poole: Leased lot. I was close. I had to remember that from several hours ago. Would you favour having separate legislation to deal with your situation, as opposed to trying to make you fit the rules of this act?

Ms Lea: Yes, absolutely. Yes, that is what this interministerial meeting, committee and report were supposed to do.

Ms Harrington: Thank you, Ms Lea, for coming here, and Mr Marshall. I gather that you are in the Simco area, and Innisfil is just north of there. It is a beautiful area. I have definitely heard from various members of the Legislature that there are many problems in this type of community around the province. They are being subjected to many different pressures. I know in Middlesex, Irene

Mathysen has told me about some horror stories there, and I went out to Halton Hills a couple of months ago to deal with their city council on a problem they are having with a community in their area. Of course, in Niagara Falls we have our own problems. But you have very clearly shown that this legislation does not fit your situation.

Ms Lea: Yes.

Ms Harrington: That seems very clear, so we will have to deal with that when the report comes down. Unfortunately, sometimes timing just does not seem to work out correctly, and it would have been nice to have the report and then use that with the legislation. We certainly are going to deal with it, because I know it is a problem across Ontario, and I thank you for bringing your concerns here.

Mr Tilson: Has the Minister of Housing or the Ministry of Housing or any of the other ministers that are on this ministerial committee provided you with an opportunity to submit briefs such as this, which is a rather complicated issue?

Ms Lea: Yes. We started working with that inter-ministerial group about two years ago. We attended many

meetings at different locations, and they literally picked our brain as to what our wish lists were. We stipulated all of that information, and the report that I referred to that was done for Gordon Mills, the MPP, by the legislative research group, addressed a lot of those situations.

Mr Tilson: Has there been any indication as to when the interministerial committee is going to be making its report?

Ms Lea: We understand the report is completed and that it is sitting on the Minister of Housing's desk.

Mr Tilson: We are looking forward to seeing it.

The Chair: Thank you. That concludes your time for presentation this afternoon.

That concludes the list of presenters for today. I remind committee members that transportation will be available at the front doors at 5:30 to take us to the airport so we can proceed to Sudbury, and we will conclude the day's hearings in Sudbury tomorrow afternoon at approximately 4 o'clock. Thank you. See you at 5:30.

The committee adjourned at 1658.

CONTENTS

Wednesday 7 August 1991

Rent Control Act, 1991, Bill 121 / Loi de 1991 sur le contrôle des loyers, projet de loi 121	G-1217
Fair Rental Policy Organization of Ontario	G-1217
Antrim Tenants Association	G-1222
Rustom Satchu, Jim McKinlay	G-1225
Council of Ontario Construction Associations	G-1228
Co-operative Housing Association of Ontario	G-1230
W J Holdings Ltd	G-1232
Klaus Vogel	G-1235
Federation of North York Tenants Associations	G-1238
Chaim Shainhouse	G-1240
High Park Tenants' Association	G-1243
Sam Cancilla	G-1245
Ontario Owned-Home Leased-Lot Federation	G-1247
Ib Amonsén	G-1249
Parc IX Tenants Association	G-1251
Donald Fox	G-1253
Arlington Park Estates (1989) Ltd	G-1254
Jeanne Berger	G-1256
Matthew Rock	G-1258
Sandycove Acres Home Owners' Association	G-1261
Adjournment	G-1263

STANDING COMMITTEE ON GENERAL GOVERNMENT

Chair: Mancini, Remo (Essex South L)

Vice-Chair: Brown, Michael A. (Algoma-Manitoulin L)

Abel, Donald (Wentworth North NDP)

Bisson, Gilles (Cochrane South NDP)

Drainville, Dennis (Victoria-Haliburton NDP)

Duignan, Noel (Halton North NDP)

Harrington, Margaret H. (Niagara Falls NDP)

Mammoliti, George (Yorkview NDP)

Murdoch, Bill (Grey PC)

O'Neill, Yvonne (Ottawa-Rideau L)

Scott, Ian G. (St George-St. David L)

Turnbull, David (York Mills PC)

Substitutions:

Hansen, Ron (Lincoln NDP) for Mr Bisson

Poole, Dianne (Eglinton L) for Mr Scott

Sola, John (Mississauga East L) for Mrs Y. O'Neill

Tilson, David (Dufferin-Peel PC) for Mr Turnbull

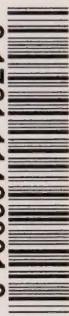
Winner, David (London South NDP) for Mr Drainville

Clerk: Deller, Deborah

Staff: Richmond, Jerry, Research Officer, Legislative Research Service

045640041

FEB 26 1992



3 1761 11466901 3